

NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD-400 (REV. 4-99)

OAL FILE NUMBERS Z-	NOTICE FILE NUMBER 2008-0118-02NR	REGULATORY ACTION NUMBER 2008-0118-02NR	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE AGENCY WITH RULEMAKING AUTHORITY California Department of Social Services		REGULATIONS AGENCY FILE NUMBER (If any) ORD #0505-08	

2008 JAN 18 PM 2:24

OFFICE OF ADMINISTRATIVE LAW

In the office of the Secretary of State of the State of California

MAR 05 2008

At 4:47 O'Clock P.M.

DEBRA BOWEN, Secretary of State

By [Signature] Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE	TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other	4. AGENCY CONTACT PERSON	TELEPHONE NUMBER ()	FAX NUMBER (Optional) ()
OAL USE ONLY ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn	ACTION ON PROPOSED NOTICE		NOTICE REGISTER NUMBER
PUBLICATION DATE			

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Residential Care Facilities for the Elderly Section 100	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 07-0821-04N
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)	
SECTION(S) AFFECTED (List all section number(s) individually)	ADOPT AMEND see attached REPEAL 87714 & 87715 AS
3. TYPE OF FILING	
☐ Regular Rulemaking (Gov. Code, § 11346) ☒ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code, §§ 11349.3, 11349.4) ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.2 - 11346.9 prior to, or within 120 days of, the effective date of the regulations listed above. ☐ Emergency (Gov. Code, § 11346.1(b)) ☐ Emergency Readopt (Gov. Code, § 11346.1(h)) ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, § 11346.1) ☐ Print Only ☒ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Other (specify) _____	
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45) N/A	
5. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code, §§ 11343.4, 11346.1(d))	
☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify) _____	
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY	
☐ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal ☐ Other (Specify) _____	
7. CONTACT PERSON Sandra Ortega, Manager	TELEPHONE NUMBER (916) 657-2586
FAX NUMBER (Optional) ()	E-MAIL ADDRESS (Optional)

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 1/15/08
TYPED NAME AND TITLE OF SIGNATORY JOHN A. WAGNER, DIRECTOR	

Amended: 87101, 87102, 87106, 87107, 87110, 87111, 87112, 87113, 87114, 87115, 87116, 87117, 87118, 87218, 87219, 87219.1, 87220, 87222, 87223, 87224, 87225, 87226, 87227, 87227.1, 87228, 87229, 87230, 87231, 87235, 87236, 87340, 87342, 87342.1, 87343, 87344, 87345, 87346, 87451, 87452, 87453, 87454, 87455, 87455.1, 87457, 87458, 87560, 87561, 87562, 87564, 87564.2, 87564.3, 87564.4, 87564.5, 87565, 87566, 87567, 87568, 87569, 87570, 87571, 87572, 87573, 87574, 87575, 87575.1, 87575.2, 87576, 87577, 87578, 87579, 87580, 87581, 87582, 87583, 87583.1, 87584, 87585, 87586, 87587, 87588, 87589, 87590, 87591, 87592, 87593, 87686, 87689, 87690, 87691, 87692, 87700, 87701, 87701.1, 87701.2, 87701.3, 87701.5, 87702, 87702.1, 87703, 87704, 87705, 87706, 87707, 87708, 87709, 87710, 87711, 87713, 87716, 87716.1, 87720, 87721, 87722, 87724, 87725, 87725.1, 87725.2, 87730, 87730.1, 87730.2, 87731, 87731.1, 87731.2, 87731.3, 87731.4

Amend Article 1. title to read:

Article 1. Definitions and Forms

Amend Section 87101 to read:

87101 DEFINITIONS

87101

~~For purposes of this chapter the following definitions shall apply:~~

- (a) (1) ~~Administrator.~~ "Administrator" means the individual designated by the licensee to act in behalf of the licensee in the overall management of the facility. The licensee, if an individual, and the administrator may be on and the same person.
- (2) ~~Adult.~~ "Adult" means a person who is eighteen (18) years of age or older.
- (3) "Adult protective services agency" means a county welfare department, as defined in Welfare and Institutions Code ~~§~~section 15610.13.

HANDBOOK BEGINS HERE

- (A) Welfare and Institutions Code ~~§~~section 15610.13 ~~defines~~ provides:

"~~a~~Adult protective services agency" ~~to~~ means a county welfare department, except persons who do not work directly with elders or dependent adults as part of their official duties, including members of support staff and maintenance staff."

HANDBOOK ENDS HERE

- (4) ~~Advance Health Care Directive.~~ "Advance Health Care Directive" means a written instruction that relates to the provision of health care when the individual is incapacitated. Advance directives include, but are not limited to, a Durable Power of Attorney for Health Care, an Individual Health Care Instruction, a Request to Forego Resuscitative Measures, or a Do Not Resuscitate Form. In an advance directive, a person states choices for medical treatment and/or designates who should make treatment choices if the person creating the advance directive should lose decision-making capacity.
- (5) ~~Allowable Health Condition.~~ "Allowable Health Condition" means any health condition that the licensee is allowed to care for either in accordance with a specific regulation, or with an exception approved by the licensing agency. This includes restricted health conditions as specified in Section 87701.1 612. Restricted Health Conditions.
- (6) ~~Ambulatory Person.~~ "Ambulatory Person" means a person who is capable of demonstrating the mental competence and physical ability to leave a building without assistance of any other person or without the use of any mechanical aid in case of emergency.

- (7) ~~Automated External Defibrillator.~~ "Automated External Defibrillator" (AED) means a light-weight, portable device used to administer an electric shock through the chest wall to the heart. Built-in computers assess the patient's heart rhythm, determine whether defibrillation (electrical shock) is needed and then administer the shock. Audible and/or visual prompts guide the user through the process.
- (8) ~~Applicant.~~ "Applicant" means any individual, firm, partnership, association, corporation, county, city, public agency or other government entity that has made application for a residential care facility for the elderly license, administrator certificate, or special permit.
- (9) ~~"Appropriately Skilled Professional:"~~ ~~M~~means an individual that has training and is licensed to perform the necessary medical procedures prescribed by a physician. This includes but is not limited to the following: Registered Nurse (RN), Licensed Vocational Nurse (LVN), Physical Therapist (PT), Occupational Therapist (OT) and Respiratory Therapist (RT). These professionals may include, but are not limited to, those persons employed by a home health agency, the resident, or facilities and who are currently licensed in California.
- (b) (1) ~~Basic Rate.~~ "Basic Rate" means the SSI/SSP established rate, which does not include that amount allocated for the recipient's personal and incidental needs.
- (2) ~~Basic Services.~~ "Basic Services" means those services required to be provided by the facility in order to obtain and maintain a license and be applicable to the type of facility to be operated, the following: safe and healthful living accommodations; personal assistance and care; observation and supervision; planned activities; food service; and arrangements for obtaining incidental medical and dental care.
- (c) (1) ~~California Clearance.~~ "California Clearance" means an individual has no felony or misdemeanor convictions reported by the California Department of Justice. However, the individual may have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.
- (2) ~~Capacity.~~ "Capacity" means that maximum number of persons authorized to be provided services at any one time in any licensed facility.
- (3) ~~Care and Supervision.~~ "Care and Supervision" means those activities which if provided shall require the facility to be licensed. It involves assistance and as needed with activities of daily living and the assumption of varying degrees of responsibility for the safety and well-being of residents. "Care and Supervision" shall include, but not be limited to, any one or more of the following activities provided by a person or facility to meet the needs of the residents: (Continued)
- (B) Assistance with taking medication, as specified in ~~s~~Section 87575 465, Incidental Medical and Dental Care Services;

- (C) Central storing and distribution of medications, as specified in sSection 87575 465, Incidental Medical and Dental Care Services;
- (D) Arrangement of and assistance with medical and dental care. This may include transportation, as specified in sSection 87575 465, Incidental Medical and Dental Care Services; (Continued)
- (4) ~~Certificate holder~~. "Certificate holder" means a person who has a current administrator's certificate issued by the Department regardless of whether the person is employed as an administrator in a residential care facility for the elderly.
- (5) ~~Certified administrator~~. "Certified administrator" means an administrator who has been issued a residential care facility for the elderly administrator certificate by the Department and whose certificate is current.
- (6) ~~Classroom hour~~. "Classroom Hour" means sixty (60) minutes of classroom instruction with or without a break. It is recommended that no more than twenty (20) minutes of break time be included in every four (4) hours of instruction. No credit is given for meal breaks.
- (7) ~~Close friend~~. "Close friend" means a person who is attached to another by feelings of personal regard as indicated by both parties involved.
- (8) ~~Co-locate~~. "Co-locate" means that a vendor applicant is approved for more than one program type, i.e., ARF, RCFE, GF, and has received approval to teach specific continuing education courses at the same time and at the same location. Co-location is allowed for Continuing Education Training Program vendors only.
- (9) ~~Community Care Facility~~. "Community Care Facility" means any facility, place or building providing nonmedical care and supervision, as defined in sSection 87101-(c)(2).
- (10) ~~Complete request~~. "Complete request" means the vendor applicant has submitted, and the Department has received, all required information and materials necessary to approve or deny the request for certification program and/or course approval.
- (11) ~~Conservator~~. "Conservator" means a person appointed by the Superior Court pursuant to the provisions of section 1800 et seq. of the Probate Code section 1800 et. seq. or Section 5350 of the Welfare and Institutions Code section 5350, to care for the person, or estate, or person and estate, of ~~another~~ an adult.
- (12) ~~Consultant~~. "Consultant" means a person professionally qualified by training and experience to provide expert information on a particular subject.

- (13) ~~Continuing Care Contract.~~ "Continuing Care Contract" is defined in Health and Safety Code Section 1771(c)(8).

HANDBOOK BEGINS HERE

Health and Safety Code section 1771(c)(8) provides:

"Continuing care contract' means a contract that includes a continuing care promise made, in exchange for an entrance fee, the payment of periodic charges, or both types of payments. A continuing care contract may consist of one agreement or a series of agreements and other writings incorporated by reference."

HANDBOOK ENDS HERE

- (14) ~~Continuing Education training Program Vendor.~~ "Continuing Education Training Program Vendor" means a vendor approved by the Department to provide continuing education training courses to residential care facility for the elderly administrators and certificate holders to qualify them for renewal of their residential care facility for the elderly administrator certificate.
- (15) ~~Control of Property.~~ "Control of Property" means the right to enter, occupy, and maintain the operation of the facility property within regulatory requirements. Evidence of control of property shall include, but is not limited to, the following:
(Continued)
- (16) ~~Conviction.~~ "Conviction" means:(Continued)
- (17) ~~Course.~~ "Course" means either, (1) a quarter- or semester – long structured sequence of classroom instruction covering a specific subject, or (2) a one-time seminar, workshop, or lecture of varying duration.
- (18) ~~Criminal Record Clearance.~~ "Criminal Record Clearance" means an individual has a California clearance and an FBI clearance.
- (d) (1) ~~Day.~~ "Day" means calendar day unless otherwise specified.
- (2) ~~Deficiency.~~ "Deficiency" means any failure to comply with any provision of the Residential Care Facilities Act for the Elderly and regulations adopted by the Department pursuant to the Act.
- (3) ~~Delayed Egress Device.~~ "Delayed Egress Device" means a special egress-control device of the time delay type as specified in Health and Safety Code Section 1569.699(a).

HANDBOOK BEGINS HERE

- (A) Health and Safety Code ~~S~~section 1569.699(a) ~~reads~~ provides:

"When approved by the person responsible for enforcement as described in Section 13146, exit doors in facilities classified as Group R, Division 2 facilities under the California Building Standards Code, licensed as residential care facilities for the elderly, and housing clients with Alzheimer's disease or dementia, may be equipped with approved listed special egress-control devices of the time-delay type, provided the building is protected throughout by an approved automatic sprinkler system and an approved automatic smoke-detection system. The devices shall conform to all of the following requirements: (Continued)

- (8) Regardless of the means of deactivation, relocking of the egress-control device shall be by manual means only at the door."

HANDBOOK ENDS HERE

- (4) ~~Dementia~~: "Dementia" means the loss of intellectual function (such as thinking, remembering, reasoning, exercising, judgment and making decisions) and other cognitive functions, sufficient to interfere with an individual's ability to perform activities of daily living or to carry out social or occupational activities. Dementia is not a disease itself, but rather a group of symptoms that may accompany certain conditions or diseases including Alzheimer's Disease. Symptoms may include changes in personality, mood, and/or behavior. Dementia is irreversible when cause by disease or injury, but may be reversible when caused by depression, drugs, alcohol, or hormone/vitamin imbalances.
- (5) ~~Department~~: "Department" is defined in Health and Safety Code, section 1569.2(~~b~~c).

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.2(c) provides:

"Department" means the State Department of Social Services."

HANDBOOK ENDS HERE

- (6) ~~Dietician~~: "Dietician" means a person who is eligible for registration by the American Dietetic Association.
- (7) ~~Direct care staff~~: "Direct care staff" means the licensee, ~~and~~ or those individuals employed by the licensee, who provide direct care to the residents, including, but not limited to, assistance with activities of daily living.

- (8) ~~Director.~~ "Director" is defined in Health and Safety Code, section 1569.2(ed).

HANDBOOK BEGINS HERE

Health and Safety Code section 1569.2(d) provides:

"~~Director~~" means the Director of the State Department of Social Services."

HANDBOOK ENDS HERE

- (9) ~~Do Not Resuscitate (DNR) Form.~~ "Do-Not-Resuscitate (DNR) Form" means the pre-hospital do-not-resuscitate forms developed by the California Emergency Medical Services Authority and by other local emergency medical services agencies. These forms, when properly completed by a resident or (in certain instances) a resident's Health Care Surrogate Decision Maker, and by a physician, alert pre-hospital emergency medical Services personnel to the resident's wish to forego resuscitative measures in the event of the resident's cardiac or respiratory arrest.
- (10) ~~Documentation.~~ "Documentation" means written supportive information including but not limited to the Licensing Report (Form LIC 809).
- (e) (1) ~~Egress Alert Device.~~ "Egress Alert Device" means a wrist band or other device which may be worn by a resident or carried on a resident's person, which triggers a visual or auditory alarm when the resident leaves the facility building or grounds.
- (2) ~~Elderly Person.~~ "Elderly Person" means, for purposes of admission into a residential care facility for the elderly, a person who is sixty (60) years of age or older.
- (3) ~~Emergency Approval to Operate.~~ "Emergency Approval to Operate" (EAO) means a temporary approval to operate a facility for no more than 60 days pending the issuance or denial of a license by the licensing agency.
- (4) ~~Evaluator.~~ "Evaluator" means any person who is a duly authorized officer, employee or agent of the Department including any officer, employee or agent of a county or other public agency authorized by contract to license community care facilities.
- (5) ~~Evidence of Licensee's Death.~~ "Evidence of Licensee's Death" shall include, but is not limited to, a copy of the death certificate, obituary notice, certification of death from the decedent's mortuary, or a letter from the attending physician or coroner's office verifying the death of the licensee.
- (6) ~~Exception.~~ "Exception" means a variance to a specific regulation based on the unique needs or circumstances of a specific resident or staff person. Requests for exceptions are made to the licensing agency by an applicant or licensee. They may be granted

for a particular facility, resident or staff person, but cannot be transferred or applied to other individuals.

- (7) ~~Existing Facility.~~ "Existing Facility" means any facility operating under a valid license on the date of application for a new license.
- (f) (1) ~~Facility Hospice Care Waiver.~~ "Facility Hospice Care Waiver" means a waiver from the limitation on retention of residents who require more care and supervision than other residents and residents who are bedridden other than for a temporary illness. The Hospice Care Waiver granted by the Department will permit the retention in a facility of a designated maximum number of terminally ill residents who are receiving hospice services from a hospice agency. The Facility Hospice Care Waiver will apply only to those residents who are receiving hospice care in compliance with a hospice care plan meeting the requirements of Section 87716 633, Hospice Care for Terminally Ill Residents.
- (2) ~~Federal Bureau of Investigation (FBI) Clearance.~~ "Federal Bureau of Investigation (FBI) Clearance" means an individual has no felony or misdemeanor convictions reported by the FBI. The individual may also have been arrested with no criminal conviction, convicted of a minor traffic offense or adjudicated as a juvenile.
- (g) (1) ~~Guardian.~~ "Guardian" means a person appointed by the Superior Court pursuant to ~~the provisions of Section 1500 et seq. of the Probate Code~~ section 1500 et seq. to care for the person, or person and estate, of ~~another~~ a child. (Continued)
- (h) (1) "Healing wounds" include cuts, stage one and two dermal ulcers as diagnosed by a physician, and incisions that are being treated by an appropriate skilled professional with the affected area returning to its normal state. They may involve breaking or lacerations of the skin and usually damage to the underlying tissues.
- (2) ~~Health Care Provider.~~ "Health Care Provider" means those persons described in Probate Code ~~Section 461521:~~ "a person who is an individual licensed, certified, or otherwise authorized or permitted by the law of this state to ~~administer~~ provide health care in the ordinary course of business or practice of a profession."
- (3) ~~Health Care Surrogate Decision Maker.~~ "Health Care Surrogate Decision Maker" means an individual who participates in health care decision making on behalf of an incapacitated resident. Health care surrogate decision maker may be formally appointed (e.g., by the resident in a Durable Power of Attorney for Health Care or by a court in a conservatorship proceeding) or, in the absence of a formal appointment, may be recognized by virtue of a relationship with the resident (e.g., the resident's next of kin). The licensee or any staff member of the facility shall not be appointed health care surrogate decision maker.

- (4) ~~Health Condition Relocation Order.~~ "Health Condition Relocation Order" means written notice by the Department to a licensee requiring the relocation of a resident from a residential care facility for the elderly because the resident has a health condition which cannot be cared for within the limits of the license, requires inpatient care in a health facility or has a prohibited health condition as specified in Section 87701 615, Prohibited Health Conditions.
- (5) ~~Home Economist.~~ "Home Economist" means a person who holds a baccalaureate or higher degree in home economics and who specialized in either food and nutrition or dietetics.
- (6) ~~Hospice or Hospice Agency.~~ "Hospice or Hospice Agency" means an entity which provides hospice services to terminally ill persons, is Medicare certified for hospice, and holds either a Hospice license or a Home Health Agency license from the California Department of Health Services. Any organizations, appropriately skilled professionals, or other professional persons or entities that are subcontracted by the hospice or hospice agency for the provision of specified hospice services to the resident are included within the definition. The hospice agency providing services in an RCFE shall not subcontract with the licensee or any facility staff for the provision of services.
- (7) ~~Hospice Care Plan.~~ "Hospice Care Plan" means the hospice agency's written plan of care for a terminally ill resident. The hospice shall retain overall responsibility for the development and maintenance of the plan and quality of hospice services delivered.
- (i) (1) ~~Immediate Need.~~ "Immediate Need" means a situation where prohibiting the operation of the facility would be detrimental to a resident's physical health, mental health, safety, or welfare. Examples of immediate need include but are not limited to:
 - (A) A change in facility location when residents are in need of services from the same operator at the new location;
 - (B) A change of facility ownership when residents are in need of services from the new operator.
- (2) ~~Initial Certification Training Program Vendor.~~ "Initial Certification Training Program Vendor" means a vendor approved by the Department to provide the initial forty (40) hour certification training program to persons who do not possess a valid residential care facility for the elderly administrator certificate.
- (3) ~~Initial Vendor Application.~~ "Initial Vendor Application" means the application form, LIC 9141, used to request approval from the Department to become a vendor for the first time.
- (4) ~~"Instruction:"~~ ~~M~~means to furnish an individual with knowledge or to teach, give orders, or direction of a process or procedure.

- (5) ~~Interdisciplinary Team~~. "Interdisciplinary Team" means a team that shall assist the Department in evaluating the need for relocating a resident of a residential care facility for the elderly when the resident has requested a review of the Department's health-condition relocation order. This team shall consist of the Department's health-condition relocation order. This team shall consist of the Department's nurse consultant and a social worker, designated by the Department, with experience in the needs of the elderly. Persons selected for an interdisciplinary team review shall not have been involved in the initial decision to issue a relocation order for the resident in question.

(j) (Reserved)

(k) (Reserved)

- (l) (1) ~~License~~. "License" is defined in Health and Safety Code section 1569.2(g).

HANDBOOK BEGINS HERE

- (A) Health and Safety Code ~~S~~section 1569.2(g) reads:

"License" means a basic permit to operate a residential care facility for the elderly.

HANDBOOK ENDS HERE

- (2) ~~Licensed Professional~~. "Licensed Professional" means a person who is licensed in California to provide medical care or therapy. This includes physicians and surgeons, physician assistants, nurse practitioners, registered nurses, licensed vocational nurses, psychiatric technicians, physical therapists, occupational therapists and respiratory therapists, who are operating within his/her scope of practice.
- (3) ~~Licensee~~. "Licensee" means the individual, firm, partnership, corporation, association or county having the authority and responsibility for the operation of a licensed facility.
- (4) ~~Licensing Agency~~. "Licensing Agency" means a state, county or other public agency authorized by the Department to assume specified licensing, approval or consultation responsibilities pursuant to ~~Section 1569.13 of the Health and Safety Code~~ section 1569.13.
- (m) (1) ~~Medical Professional~~. "Medical Professional" means an individual who is licensed or certified in California to perform the necessary medical procedures within his/her scope of practice. This includes, but is not limited to, Medical Doctor (MD), Registered Nurse (RN) and Licensed Vocational Nurse (LVN).

- (2) ~~Mild Cognitive Impairment~~. "Mild cognitive impairment" (MCI) refers to people whose cognitive abilities are in a "conditional state" between normal aging and dementia. Normal age-related memory changes can include forgetting a person's name or the location of an object, however, individuals with MCI have difficulty with short-term memory loss. MCI is a state in which at least one cognitive function, usually short-term memory, is impaired to an extent that is greater than would be anticipated in the normal aging process. MCI is characterized by short-term memory problems, but no other symptoms of dementia (e.g., problems with language, judgment, changes in personality or behavior) that affect a person's daily functioning. Individuals with MCI may experience some difficulty with intellectually demanding activities, but lack the degree of cognitive and functional impairment required to meet diagnostic criteria for dementia.
- (n) (1) ~~New Facility~~. "New Facility" means any facility applying for an initial license whether newly constructed or previously existing for some other purpose.
- (2) ~~Nonmigratory Person~~. "Nonambulatory Person" means a person who is unable to leave a building unassisted under emergency conditions. It includes, but is not limited to, those persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. It also includes persons who are unable, or likely to be unable, to respond physically or mentally to an oral instruction relating to fire danger and, unassisted, take appropriate action relating to such danger.
- (3) ~~Non-Compliance Conference~~. "Non-Compliance Conference" means a meeting initiated by the Department that takes place between the licensing agency and the licensee to afford the licensee an opportunity to correct licensing violations other than those that pose an immediate danger to residents and that may result in a corrective plan of action. Its purpose is to review the existing deficiencies and to impress upon the licensee the seriousness of the situation prior to the agency requesting administrative action to revoke the license. The Department may initiate administrative action without a non-compliance conference.
- (4) ~~Nutritionist~~. "Nutritionist" means a person holding a master's degree in food and nutrition, dietetics, or public health nutrition, or who is employed by a county health department in the latter capacity.
- (o) (Reserved)
- (p) (1) ~~Physician~~. "Physician" means a person licensed as a physician and surgeon by the California Board of Medical Examiners or by the California Board of Osteopathic Examiners.

- (2) ~~Placement Agency.~~ "Placement Agency" as defined in Health and Safety Code ~~S~~section 1569.47(a), means any county welfare department, county social services department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, state-funded program or private agency providing placement or referral services, and regional center for persons with developmental disabilities which is engaged in finding homes or other places for the placement of elderly persons for temporary or permanent care. (Continued)
- (4) "Provision" or "Provide." Whenever any regulation specifies that provision be made for or that there be provided any service, personnel or other requirement, it means that if the resident is not capable of doing so himself, the licensee shall do so directly or present evidence satisfactory to the licensing agency of the particular arrangement by which another provider in the community will do so.
- (5) ~~Provisional License.~~ "Provisional License" means a temporary, nonrenewable license, issued for a period not to exceed twelve months which is issued in accordance with the criteria specified in ~~s~~Section 87234 162, Provisional License. (Continued)
- (r) (1) ~~Rehabilitation.~~ "Rehabilitation" means the effort to reestablish good character since the date of the last conviction, including, but not limited to, education, counseling or therapy, training, stable employment, restitution, remorse, changes in lifestyle, or community service.
- (2) ~~Relative.~~ "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any such person denoted by the prefix "grand" or "great", or the spouse of any of the persons specified in this definition, even if the marriage has been terminated by death or dissolution.
- (3) ~~Renewal Vendor Application.~~ "Renewal Vendor Application" means the application form, LIC 9141, used to request approval from the Department to continue another two (2) years as an approved vendor.
- (4) ~~Request to Forego Resuscitative Measures.~~ A "Request to Forego Resuscitative Measures" is defined in Probate Code ~~S~~section 4753(b)80.

HANDBOOK BEGINS HERE

(A) Probate Code ~~S~~section 4753(b)80 ~~reads~~ provides:

"(a) As used in this part:

A(1) "Request to forego resuscitative measures" shall be means a written document, signed by the

(A) an individual, or a legally recognized surrogate health care decision maker, and

(B) a physician and surgeon, that directs a health care provider to forego resuscitative measures for the individual.

~~For the purpose of this section, a~~

(2) "Request to forego resuscitative measures" shall include a prehospital "do not resuscitate" form as developed by the Emergency Medical Services Authority or other substantially similar form.

(b) A request to forego resuscitative measures may also be evidenced by a medallion engraved with the words "do not resuscitate" or the letters "DNR", a patient identification number, and a 24-hour toll-free telephone number, issued by a person pursuant to an agreement with the Emergency Medical Services Authority."

HANDBOOK ENDS HERE

- (5) ~~Residential Care Facility for the Elderly.~~ "Residential Care Facility for the Elderly" means a housing arrangement chosen voluntarily by the resident, the resident's guardian, conservator or other responsible person; where 75 percent of the residents are sixty years of age or older and where varying levels of care and supervision are provided, as agreed to at time of admission or as determined necessary at subsequent times of reappraisal. Any younger residents must have needs compatible with other residents.
- (6) ~~Responsible Person.~~ "Responsible Person" means that individual or individuals, including a relative, health care surrogate decision maker, or placement agency, who assist the resident in placement or assume varying degrees of responsibility for the resident's well-being.
- (7) ~~Room and Board.~~ "Room and Board" means a living arrangement where care and supervision is neither provided nor available.
- (s) (1) ~~Serious Deficiency.~~ "Serious Deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health, or safety of the residents or clients of a community care facility.
- (2) ~~Shall.~~ "Shall" means mandatory. "May" means permissive.

- (3) ~~Significant Other.~~ "Significant Other" means a person, including a person of the same gender, with whom a resident was sharing a partnership prior to his/her placement in a Residential Care Facility for the Elderly (RCFE). The partnership involves two adults who have chosen to share on another's lives in an intimate and committed relationship of mutual caring.
- (4) ~~Simplified Exemption.~~ "Simplified Exemption" means an exemption granted on the Department's own motion, as authorized in Health and Safety Code ~~S~~section 1569.17(c)(4), if the individual's criminal history meets specific criteria established by Department regulation. (Continued)
- (6) ~~Social Worker.~~ "Social Worker" means a person who has a graduate degree from an accredited school of social work or who has equivalent qualifications as determined by the Department.
- (7) ~~SSI/SSP.~~ "SSI/SSP" means the Supplemental Security Income/State Supplemental Program.
- (8) Standard Precautions. See "Universal Precautions."
- (9) ~~Substantial Compliance.~~ "Substantial Compliance" means the absence of any deficiencies which would threaten the physical health, mental health, safety or welfare of the residents. Such deficiencies include, but are not limited to, those deficiencies referred to in ~~s~~Section 87451 758, Serious Deficiencies – Examples, and the presence of any uncorrected serious deficiencies for which civil penalties could be assessed.
- (10) ~~Supervision.~~ "Supervision" means to oversee or direct the work of an individual or subordinate but does not necessarily require the immediate presence of the supervisor.
- (t) (1) ~~Terminally Ill Resident.~~ "Terminally Ill Resident" means that the resident has a prognosis by his/her attending physician that the resident's life expectancy is six months or less if his/her illness or condition runs its normal course.
- (2) ~~Transfer trauma.~~ "Transfer trauma" means the consequences of the stress and emotional shock caused by an abrupt, involuntary relocation of a resident from one facility to another.
- (u) (1) ~~Universal Precautions.~~ "Universal Precautions" means an approach to infection control that treats all human blood and body fluids as if they are infectious. Generally, universal precautions consist of regular hand washing after coming into contact with another person's body fluids (mucous, saliva, urine, etc.) and includes use of gloves when handling blood or body fluids that contain blood. Specifically, universal precautions consist of the following four basic infection control guidelines. (Continued)

- (2) "Unlicensed Residential Facility for the Elderly" means a facility as defined in Health and Safety Code section 1569.44.

~~(A)~~ ~~(Reserved)~~

HANDBOOK BEGINS HERE

~~(A)~~ Health and Safety Code ~~S~~section 1569.44~~(a)~~ provides ~~in part~~:

"(a) A facility shall be deemed to be an "unlicensed residential care facility for the elderly" and "maintained and operated to provide residential care" if it is unlicensed and not exempt from licensure, and any one of the following conditions is satisfied. (Continued)

- (4) The facility represents itself as a licensed residential facility for the elderly."

HANDBOOK ENDS HERE

~~(BA)~~ A facility which is "providing care and supervision" as defined in ~~S~~section 871001(c-)(23) includes, but is not limited to, one in which individual has been placed by a placement agency or family members.

~~(CB)~~ A facility which is "held out as or represented as providing care and supervision" includes, but is not limited to:

- (1) A facility whose license has been revoked or denied, but the individual continues to provide care for the same or different clients with similar needs.
- (2) A facility where change of ownership has occurred and the same clients are retained.
- (3) A licensed facility that moves to a new location.
- (4) A facility which advertises as providing care and supervision.

~~(DC)~~ A facility which "accepts or retains residents who demonstrate the need for care and supervision" includes, but is not limited to:

- (1) A facility with residents requiring care and supervision, even though the facility is providing board and room only, or board only, or room only.

- (2) A facility where it is apparent that care and supervision are being provided by virtue of the client's needs being met.
- (v) (1) ~~Vendor.~~ "Vendor" means a Department-approved institution, association, individual(s), or other entity that assumes full responsibility or control over a Department-approved Initial Certification Training Program and/or a Continuing Education Training Program.
- (2) ~~Vendor applicant.~~ "Vendor applicant" means any institution, association, individual(s), or other entity that submits a request for approval of an Initial Certification Training Program and/or a Continuing Education Training Program.
- (3) ~~Voluntary.~~ "Voluntary" means resulting from free will.
- (w) (1) ~~Waiver.~~ "Waiver" means a variance to a specific regulation based on a facility-wide need or circumstance which is not typically tied to a specific resident or staff person. Requests for waivers are made to the licensing agency, in advance, by an applicant or licensee.
- (x) (Reserved)
- (y) (Reserved)
- (z) (Reserved)

Authority cited: Sections 1569.23, 1569.30, 1569.616, and 1569.698, Health and Safety Code.

Reference: 42 CFR 418.3; Sections 1569.1, 1569.2, 1569.5, 1569.10, 1569.145, 1569.15, 1569.153, 1569.157, 1569.158, 1569.17, 1569.19, 1569.191, 1569.193, 1569.20, 1569.21, 1569.23, 1569.31, 1569.312, 1569.33, 1569.38, 1569.44, 1569.47, 1569.54, 1569.616, 1569.626, 1569.699, 1569.73, 1569.74, 1569.82, 1771 and 1797.196, Health and Safety Code; Sections 5350 and 15610.13, Welfare and Institutions Code; and Sections 1500, 1800, 4615, 4650, and ~~4753~~ 4780, Probate Code.

Amend Section 87102 to read:

87102 ~~DEFINITIONS—FORMS~~ DESCRIPTIONS OF FORMS (Continued) 87102

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections ~~1530 and~~ 1569.616(i), Health and Safety Code; ~~and Section 15376,~~
 Government Code.

Amend Section 87106 to read:

87106 OPERATION WITHOUT A LICENSE

87106

- (a) An unlicensed facility as defined in ~~s~~Section 87101(u)(12) is in violation of section 1569.10, 1569.44 and/or 1569.45 of the Health and Safety Code unless the facility is exempted from licensure under ~~s~~Section 87101(a).
- (b) (Continued)

HANDBOOK BEGINS HERE

- (1) Health and Safety Code ~~S~~section 1569.35(c) provides in part:

"Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a residential care facility for the elderly, the department shall make a preliminary review and, unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint.... In either event, the complainant shall be promptly informed of the department's proposed course of action."

HANDBOOK ENDS HERE

- (c) (Continued)
- (d) The licensing agency shall issue an immediate civil penalty pursuant to ~~s~~Sections 87340 768, Unlicensed Facility Penalties and Health and Safety Code section 1569.485 of the Health and Safety Code.

HANDBOOK BEGINS HERE

- (1) ~~Section 1569.485 of the Health and Safety Code~~ section 1569.485(a) and (b) provides in part:

"(a) Notwithstanding any other provision of this chapter, any person who violates Section 1569.10 or 1569.44, or both, ~~may~~ shall be assessed by the department an immediate civil penalty in the amount of ~~two~~ one hundred dollars (\$~~2~~100) per resident each day of violation....

(b) The civil penalty...shall be ~~imposed~~ doubled if an unlicensed facility is operated and the operator refuses to seek licensure or the operator seeks licensure and the licensure application is denied and the operator continues to operate the unlicensed facility...."

HANDBOOK ENDS HERE

(e) (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.10, 1569.19, 1569.335, 1569.35, 1569.40, 1569.405, 1569.41, 1569.42, 1569.43, 1569.44, 1569.45, 1569.47, 1569.485 and 1569.495, Health and Safety Code.

Amend Section 87107 to read:

87107 EXEMPTION FROM LICENSURE

87107

(a) (Continued)

(5) (Continued)

- (6) Any alcoholism recover facility as defined by ~~Section 11834.11~~ of the Health and Safety Code section 11834.02(a) relating to alcohol programs.

HANDBOOK BEGINS HERE

Health and Safety Code ~~Ssection 11834.11~~02(a) provides ~~in part~~:

- (A) An "alcoholism or drug abuse recovery or treatment facility" or 'facility' means any premises, facility place, or building which is maintained and operated to that provides 24-hour residential nonmedical alcoholism recovery services exclusively for individuals whose involvement in services is related primarily to an alcohol problem to adults who are recovering from problems related to alcohol, drug, or alcohol and drug misuse or abuse, and who need alcohol, drug or alcohol and drug recovery treatment or detoxification services."

HANDBOOK ENDS HERE

(7) (Continued)

HANDBOOK BEGINS HERE

(A) (Continued)

HANDBOOK ENDS HERE

(10) (Continued)

Authority cited: Sections 1569.145 and 1569.30, Health and Safety Code.

Reference: Sections 1505, 1569.145, and 11834.2, Health and Safety Code; and Grimes v. CDSS (1999) 70 Cal.App.4th 1065.

Renumber Section 87113 to Section 87109 and amend to read:

~~87113~~ 09 TRANSFERABILITY OF LICENSE (Continued)

~~87113~~ 09

Authority cited: Sections 1569.30a(a), Health and Safety Code.

Reference: Sections 1569.11 and 1569.191, Health and Safety Code.

Renumber Section 87114 to Section 87111 and amend to read:

87114 1 CONTINUATION OF LICENSE UNDER EMERGENCY
CONDITIONS OR SALE OF PROPERTY (Continued)

87114 1

- (c) The Department may permit a designee to continue operation of a previously licensed facility, and grant an Emergency Approval to Operate (EAO) to a facility for up to 60 days pending issuance or denial of a license, provided the following requirements of ~~Section 1569.193~~ of the Health and Safety Code section 1569.193 are met: (Continued)

(5) (Continued)

- (A) Failure to comply with licensing laws and regulations under Section 871141(b) as determined by the licensing agency, shall result in the denial of the application for license. This denial shall also constitute termination of the EAO. (Continued)

- (f) In the event of the sale and transfer of property and business, the applicant (buyer) shall be issued an EAO if the applicant (buyer) complies with ~~section 1569.191~~ of the Health and Safety Code section 1569.191.

HANDBOOK BEGINS HERE

(~~1~~) (Continued)

"(a) Notwithstanding Section 1569.19, in the event of a sale of a licensed facility where the sale will result in a new license being issued, the sale and transfer of property and business shall be subject to both of the following:

- (1) The licensee shall provide written notice to the department and to each resident or his or her legal representative of the licensee's intent to sell the facility at least ~~630~~ days prior to the transfer of property or business, or at the time that a ~~bona-fide~~ bona fide offer is made, whichever period is longer.

(2) (Continued)

- (c) No sale of the facility shall be permitted until ~~630~~ days have elapsed from the date upon which notice has been provided pursuant to paragraphs (1) and (2) of subdivision (a). (Continued)

(e) If the parties involved in the transfer of the property and business fully comply with this section then the transfer may be completed and the buyer shall not be considered to be operating an unlicensed facility while the department makes final determination on the application for licensure. ..."

HANDBOOK ENDS HERE

(g) (Continued)

Authority cited: Sections 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.15, 1569.191, and 1569.193, ~~and 1569.30~~, Health and Safety Code.

Renumber Section 87236 to Section 87112 and amend to read:

87236 112 CONDITIONS FOR FORFEITURE OF A RESIDENTIAL CARE
FACILITY FOR THE ELDERLY LICENSE

87236 112

- (a) Conditions for forfeiture of a residential care facility for the elderly license shall be as specified in ~~Section 1569.19 of the~~ Health and Safety Code section 1569.19.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code ~~S~~section 1569.19 reads provides in part:

"A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs: (Continued)

(c) The licensee moves the facility from one location to another. The department shall develop regulations to ensure that the facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location. (Continued)

(f) The licensee abandons the facility."

HANDBOOK ENDS HERE

(21) (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Section 1569.19, Health and Safety Code.

Renumber Section 87115 to Section 87113:

871153 POSTING OF LICENSE (Continued)

871153

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Section 1569.~~30~~45, Health and Safety Code.

Renumber Section 87117 to Section 87114:

87117 4 APPLICANT / OR LICENSEE MAILING ADDRESS (Continued)

87117 4

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.15, 1569.20, 1569.22, ~~1569.30~~ and 1569.51, Health and Safety Code.

Amend Section 87118 to read:

87118 NONDISCRIMINATION (Continued)

87118

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections ~~1569.30 and~~ 1569.31, Health and Safety Code; and Section 51, Civil Code.

Renumber Section 87218 to Section 87155 and amend to read:

Article 3. Application Procedures

87218 155 APPLICATION FOR LICENSE

87218 155

(a) (Continued)

(1) (Continued)

(2) Name and address of the applicant and documentation verifying completion by the applicant of certification requirements as specified in Section 87564.2 406, Administrator Certification Requirements. (Continued)

HANDBOOK BEGINS HERE

~~(A)~~ Health and Safety Code ~~S~~section 1569.175 provides:

"(a) (Continued)

(c) Facilities with nonresident owners shall establish procedures to comply with the requirements of this section on or before July 1, 1987."

HANDBOOK ENDS HERE

(7) (Continued)

(12) Evidence pursuant to Health and Safety Code, ~~S~~section 1520(b).

HANDBOOK BEGINS HERE

Health and Safety Code section 1520(b) provides:

"(b) Evidence satisfactory to the ~~licensing agency department~~ that the applicant is of reputable and responsible character. ...If the applicant is a firm, association, organization, partnership, business trust, corporation, or company, like evidence shall be submitted as to the members or shareholders thereof, and the person who will be in charge of the community care facility for which application for issuance of license or special permit is made."

HANDBOOK ENDS HERE

(13) (Continued)

- (14) When there is a change of licensee, the required documentation shall include the information specified in Section 87227 17(k). (Continued)
- (16) A Pplan of Ooperation as specified in Section 87222 08, Plan of Operation.
- (17) The fee for processing the application for the requested capacity as specified in Section 87224 156, Licensing Fees. (Continued)

Authority cited: Sections 1569.23, 1569.30, and 1569.616, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.10, 1569.15, 1569.151, 1569.1515, 1569.16, 1569.17, 1569.185, 1569.19, 1569.20, 1569.21, 1569.22, 1569.23, 1569.24, 1569.312, 1569.45, 1569.60, 1569.616, and 1569.62, Health and Safety Code.

Renumber Section 87224 to Section 87156 and amend to read:

87224156 LICENSING FEES
(Continued)

87224156

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.185 and 1569.19, Health and Safety Code.

Renumber Section 87228 to Section 87157:

87228 157 APPLICATION REVIEW (Continued)

87228 157

- (b) The licensing agency shall cease review of any application as specified in ~~Section 1569.16~~ of the Health and Safety Code section 1569.16.

HANDBOOK BEGINS HERE

- (1) Health and Safety Code ~~S~~section 1569.16 provides in part:

"(a)(1) If an application for a license indicates, or the department determines during the application review process, that the applicant previously was issued a license... ~~under this chapter or under Chapter 1 (commencing with Section 1200), 2 (commencing with Section 1250), 3 (commencing with Section 1500), 3.4 (commencing with Section 1596.70), 3.5 (commencing with Section 1596.90), or 3.6 (commencing with Section 1597.30)~~ and the prior license was revoked within the preceding two years, the department shall cease any further review of the application until two years shall have elapsed from the date of revocation. ...

- (b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in subdivision (a) and the application was denied within the last year, the department shall, except as provided in Section 1569.22, cease further review of the application until one year has elapsed from the date of the denial letter. In those circumstances where denials are appealed and upheld at an administrative hearing, review of the application shall cease for one year from the date of the decision and order being rendered by the department. The cessation of review shall not constitute a denial of the application. ..."

HANDBOOK ENDS HERE

- (21) "Application was denied within the last year" as specified in Health and Safety Code ~~S~~section 1569.16(b) shall include initial ~~or renewal~~ applications.
- (32) If cessation of review occurs the application shall be returned to the applicant. It shall be the responsibility of the applicant to request resumption of review as specified in Health and Safety Code ~~S~~section 1569.16.
- (43) The application fee shall be nonrefundable as specified in Section ~~87224~~156(e).

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.15, 1569.16, 1569.17, 1569.20, and 1569.205, Health and Safety Code.

Renumber Section 87229 to Section 87158:

87229 158 CAPACITY (Continued)

87229 158

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2, 1569.31 and 1569.312, Health and Safety Code.

Renumber Section 87230 to Section 87159:

87230 159 WITHDRAWAL OF APPLICATION (Continued)

87230 159

Authority cited: Section ~~1530~~ 1569.30, Health and Safety Code.

Reference: Sections 1569.185, 1569.20, 1569.22, ~~1569.30~~, 1569.50, 1569.51 and 1569.52, Health and Safety Code.

Renumber Section 87235 to Section 87161:

~~87235~~ 161 RESUBMISSION OF APPLICATION (Continued)

~~87235~~ 161

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.3, 1569.10, 1569.11, 1569.15 and 1569.19, Health and Safety Code.

Renumber Section 87231 to Section 87162 and amend to read:

~~87231~~ 162 PROVISIONAL LICENSE

~~87231~~162

- (a) The licensing agency may issue a provisional license to an applicant who has submitted a completed application for an initial license if the licensing agency determines that there are no life safety risks, that the facility is in substantial compliance, as defined in ~~s~~Section 87101(s-)(6), with applicable law and regulations, and an immediate need for licensure exists as defined in ~~s~~Section 87101(i-)(3).

- (1) A provisional license shall not be issued as specified in Health and Safety Code ~~S~~section 1569.1515(b).

HANDBOOK BEGINS HERE

~~(A)~~ Health and Safety Code ~~S~~section 1569.1515(b) provides:

"(b) (Continued)

HANDBOOK ENDS HERE

(b) (Continued)

- (e) If the licensing agency determines after its review, specified in ~~s~~Section 87228 157, Application Review, that the licensee does not meet the licensing requirements, the application shall be denied, as specified in ~~s~~Section 87340 163, Denial of License Application.
- (f) If the licensing agency denied the application for an initial license, the applicant may appeal the denial, as provided in ~~s~~Section 87340 163, Denial of License Application. Until the Director adopts a decision on the denial action, the facility shall be unlicensed.

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.15, 1569.1515(~~b~~), 1569.17, ~~1569.18~~, 1569.20, 1569.21, 1569.22, 1569.23, and 1569.24, Health and Safety Code.

Renumber Section 87340 to Section 87163 and amend to read:

87340 163

DENIAL OF ~~INITIAL~~ LICENSE APPLICATION

87340 163

- (a) Except as specified in Section ~~87231~~ 162(a), which provides that the applicant may be issued a provisional license based upon substantial compliance and immediate need, the licensing agency shall deny an application for an initial license if it is determined that the applicant is not in compliance with applicable law and regulations.
- (b) The licensing agency shall have the authority to deny an application for an initial license if the applicant has failed to pay any civil penalty assessments pursuant to Section ~~87457~~ 768, Unlicensed Facility Penalties, and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.
- (c) The licensing agency shall have the authority to deny an initial application if the applicant does not comply with Sections ~~87218~~ 155(a)(2); and ~~(a)~~ (9), and Health and Safety Code ~~Sections~~ 1569.1515(b) and 1569.50.

HANDBOOK BEGINS HERE

~~(1)~~ (Continued)

~~(2)~~ (Continued)

HANDBOOK ENDS HERE

(d) (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.15, 1569.1515(b), 1569.17, 1569.185, 1569.20, 1569.21, 1569.22, 1569.23(a) and (e), ~~1569.30~~, 1569.485, 1569.49, 1569.50, 1569.51, 1569.52, and 1569.53, Health and Safety Code.

Amend Article 4 title to read:

Article 4. ~~Administrative Actions~~ Operating Requirements

Renumber Section 87220 to Section 87202:

~~87220~~ 202 FIRE CLEARANCE (Continued)

~~87220~~ 202

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2, ~~1569.30~~ and 1569.312, Health and Safety Code.

Renumber Section 87689 to Section 87203:

87689 203 FIRE SAFETY (Continued)

87689 203

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections ~~1569.30~~, 1569.31 and 1569.312, Health and Safety Code.

Renumber Section 87110 to Section 87204:

~~87110~~204 LIMITATIONS - CAPACITY AND AMBULATORY STATUS
(Continued)

~~87110~~204

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2, 1569.31 and 1569.312, Health and Safety Code.

Renumber Section 87560 to Section 87205; renumber Section 87560(c) to Section 87211(c), and amend to read:

87560205 ACCOUNTABILITY OF LICENSEE GOVERNING BODY(Continued) 87560205

- (e) ~~Any change in the chief corporate officer of an organization, corporation or association shall be reported to the Department or licensing agency in writing within fifteen (15) working days following such change. Such notification shall include the name, address and the fingerprint card of the new chief executive officer as required by Section 87219.~~
[Renumbered to Section 87211(c).]

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.15, 1569.16, 1569.17, ~~1569.30~~, 1569.31 and 1569.312, Health and Safety Code.

Renumber Section 87111 to Section 87206:

~~87111~~206 ADVERTISEMENTS AND LICENSE NUMBER

~~87111~~206

(a) (Continued)

HANDBOOK BEGINS HERE

(1) (Continued)

(2) (Continued)

HANDBOOK ENDS HERE

(b) (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.68 and 1569.681, Health and Safety Code.

1
Renumber Section 87112 to Section 87207:

87112207 FALSE CLAIMS (Continued)

87112207

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections ~~1569.30~~ and 1569.44, Health and Safety Code.

Renumber Section 87222 to Section 87208 and amend to read:

8722208 PLAN OF OPERATION

8722208

(a) (1) (Continued)

(6) Plan for training staff, as required by Section 87565411(c). (Continued)

(9) A statement whether or not the applicant will handle residents' money and/or valuables. If money and/or valuables will be handled, the method for safeguarding pursuant to Sections 8722515, Commingling of Money, 8722616, Bonding and 8722717, Safeguards for Resident Cash, Personal Property, and Valuables. (Continued)

HANDBOOK BEGINS HERE

(A) ~~Section 1569.313 of the Health and Safety Code~~ section 1569.313 provides that in part:

"The facility's policy concerning family visits and communication shall be designed to encourage regular family involvement with the resident client and shall provide ample opportunities for family participation in activities at the facility."

HANDBOOK ENDS HERE

(11) (Continued)

(b) A licensee who advertises or promotes dementia special care, programming, and/or environments shall include additional information in the plan of operation as specified in Section 8772506(a)(2).

(c) A licensee who accepts or retains residents diagnosed by a physician to have dementia shall include additional information in the plan of operation as specified in Section 8772405(b).

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.15, 1569.157, 1569.175, 1569.2, ~~1569.30~~, 1569.31, 1569.312, 1569.313, 1569.316(a), 1569.626, and 1569.627, Health and Safety Code; ~~and Section 11006.9, Welfare and Institutions Code.~~

Renumber Section 87116 to Section 87209:

~~87116~~209 PROGRAM FLEXIBILITY (Continued)

~~87116~~209

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1530 and 1569.31, Health and Safety Code.

Renumber Section 87561 to Section 87211 and renumber Section 87560(c) to Section 87211(c):

~~87561~~211 REPORTING REQUIREMENTS (Continued)

~~87561~~211

~~87560~~(e)

- (c) Any change in the chief corporate officer of an organization, corporation or association shall be reported to the licensing agency in writing within fifteen (15) working days following such change. Such notification shall include the name, address and the fingerprint card of the new chief executive officer, as required by Section 87355, Criminal Record Clearance.

Authority cited: Sections 1569.30 and 1569.616, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312, 1569.616, and 1797.196, Health and Safety Code.

Renumber Section 87223 to Section 87212 and amend to read:

8722312 ~~DISASTER AND MASS CASUALTY~~ EMERGENCY DISASTER PLAN 8722312
(Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312, and 13131, Health and Safety Code.

Renumber Section 87562 to Section 87213 and amend to read:

87562213 FINANCES

87562213

The licensee shall have a financial plan ~~which~~ that conforms to the requirements of Section 87213155, Application for License, and ~~which~~ that assures sufficient resources to meet operating costs for care of residents; shall maintain adequate financial records; and shall submit such financial reports as may be required upon the written request of the ~~Department~~ of licensing agency. Such request shall explain the need for disclosure. The ~~Department~~ or licensing agency reserves the right to reject any financial report and to request additional information or examination, including interim financial statements.

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2; and 1569.15, Health and Safety Code; ~~and Section 11006.9, Welfare and Institutions Code.~~

Renumber Section 87225 to Section 87215:

8722~~5~~15 COMMINGLING OF MONEY (Continued)

8722~~5~~15

Authority cited: Section ~~1530~~ 1569.30, Health and Safety Code.

Reference: Sections ~~1501, 1530, 1531, 1560, and 1561,~~ 1569.1, 1569.31, 1569.60 and 1569.61, Health and Safety Code.

Renumber Section 87226 to Section 87216:

8722616 BONDING (Continued)

8722616

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.15, ~~1569.30~~, 1569.31, 1569.312, 1569.60 and 1569.61,
Health and Safety Code.

Renumber Section 87227 to Section 87217 and amend to read:

8722717 SAFEGUARDS FOR RESIDENT CASH ~~RESOURCES~~, 8722717
PERSONAL PROPERTY, AND VALUABLES ~~OF RESIDENTS~~
(Continued)

(d) (Continued)

- (4) become the joint tenant on any account specified in Section 8722717(h) with a resident. (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.15, ~~1569.30~~, 1569.31, 1569.60 and 1569.61, Health and Safety Code; Section 11006.9, Welfare and Institutions Code; and Title 20 CFR Code of Federal Regulations, Section 416.601.

Renumber Section 87227.1 to Section 87218:

~~87227.118~~ THEFT AND LOSS

~~87227.118~~

(a) (Continued)

HANDBOOK BEGINS HERE

- (4) Section 1569.153 of the Health and Safety Code section 1569.153 provides in part:
(Continued)

"A theft and loss program shall be implemented by the residential care facilities for the elderly within 90 days after January 1, 1989. The program shall include all of the following:

"(a) (Continued)

"(b) (Continued)

"(c) (Continued)

"(1) (Continued)

"(2) (Continued)

"(3) (Continued)

"(4) (Continued)

"(5) (Continued)

"(d) A written resident personal property inventory is established upon admission and retained during the resident's stay in the residential care facility for the elderly. Inventories shall be written in ink, witnessed by the facility and the resident or resident's representative, and dated. A copy of the written inventory shall be provided to the resident or the person acting on the resident's behalf. All additions to an inventory shall be made in ink, and shall be witnessed by the facility and the resident or resident's representative, and dated. Subsequent items brought into or removed from the facility shall be added to or deleted from the personal property inventory by the facility at the written request of the resident, the resident's family, a responsible party, or a person acting on behalf of a resident. The facility shall not be liable for items which have not been requested to be included in the inventory or for items which have been deleted from the inventory. A copy of a current inventory shall be

made available upon request to the resident, responsible party, or other authorized representative. -- The resident, resident's family, or a responsible party may list those items which are not subject to addition or deletion from the inventory, such as personal clothing or laundry, which are subject to frequent removal from the facility.

"(e) (Continued)

"(f) (Continued)

"(g) (Continued)

"(h) (Continued)

"(i) (Continued)

"(j) (Continued)

"(k) (Continued)

"(l) (Continued)

"(m) (Continued)

HANDBOOK ENDS HERE

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.152, 1569.153, and 1569.154, Health and Safety Code.

Renumber Section 87579 to Section 87219:

~~87579~~219 PLANNED ACTIVITIES (Continued)

~~87579~~219

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, ~~1569.30~~, 1569.31 and 1569.312, Health and Safety Code.

Renumber Section 87592 to Section 87221:

~~87592~~221 RESIDENT COUNCILS (Continued)

~~87592~~221

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections ~~1569.30~~, 1569.31 and 1569.312, Health and Safety Code.

Renumber Section 87593 to Section 87222 and amend to read:

87593222 REQUIREMENTS FOR EMERGENCY ADULT PROTECTIVE
SERVICES PLACEMENTS

87593222

(a) (Continued)

(1) (Continued)

(B) A written addendum to the Plan of Operation, specified in Section 8722208, Plan of Operation that includes procedures for the intake of an APS emergency placement. The addendum shall specify how the licensee will meet the needs of a resident placed on an emergency basis, such as on-call staff, additional staff and training.

1. (Continued)

a. The licensee shall provide a private room for the resident until a pre-admission appraisal of the resident's individual service needs has been completed, specified in Section 87583457, Pre-admission Appraisal. (Continued)

(C) (Continued)

1. (Continued)

a. The licensee attaches this APS statement of local need [Section 87593222(a)(1)(C)1.] to the written request, specified in Section 87593222(a)(1).

b. The licensee must request a statement each year from the APS agency, indicating a local need still exists as specified in Section 87593222(a)(1)(C)1., and submit the statement to the Department. (Continued)

(c) The licensee shall comply with the regulations in Title 22, Division 6, Chapter 8 (Residential Care Facilities for the Elderly), unless otherwise stated in Section 87593222, Requirements for Emergency Adult Protective Services Placements. These regulations include, but are not limited to, the following:

(1) The licensee shall not exceed the capacity limitations specified on the license and shall not allow rooms approved only for ambulatory residents to be used by nonambulatory residents, as specified in Section 87110204, Limitations - Capacity and Ambulatory Status.

- (2) The licensee shall meet the requirements in Section 872202 on fire clearance if the licensee has accepted a nonambulatory resident, defined in Section 87101(n)(2).

(d) (Continued)

- (1) Individuals with prohibited health conditions [~~Section 87701.4~~615, Prohibited Health Conditions].

- (2) Individuals with restricted health conditions [~~Section 87701.4~~612, Restricted Health Conditions].

(A) The licensee may accept an APS emergency placement who is incontinent when the requirements in Section 87708625, Managed Incontinence, are met.

- (3) Individuals who are receiving hospice care [~~Section 87714~~633, Hospice Care for Terminally Ill Residents].

- (4) Individuals who have active communicable tuberculosis [Section 87582455(c)(1)].

- (5) Individuals who require 24-hour, skilled nursing or intermediate care [Section 87582455(c)(2)].

- (6) Individuals whose primary need for care and supervision results from an ongoing behavior, caused by a mental disorder, that would upset the general resident group [Section 87582455(c)(3)(A)].

- (7) Individuals who are bedridden, as defined in Section 87582 455(d).

- (e) If a licensee accepts an APS emergency placement with dementia, the licensee shall meet the requirements in Section 8772405, Care of Persons with Dementia. (Continued)

- (h) Within seven calendar days of an APS emergency placement, the licensee shall obtain other resident information specified in Section 875706, Resident Records.

- (1) The resident must have a tuberculosis test [Section 87569458(b)(1)] by the seventh day of placement even though the test results may not be available by the seventh day of placement.

- (i) The licensee shall contact the resident's attending physician or the person authorized to act for the physician to identify all of the resident's prescribed medications and usage instructions [Section 87569458(b)(3)] by the next working day, but no later than 72 hours from the initial APS emergency placement. (Continued)

- (2) If medication verification, as specified in Section ~~87593222~~(i), has not been obtained within 72 hours from the resident's initial placement, the licensee shall contact the APS worker to request that the resident be relocated, as specified in Section ~~87593222~~(j).
- (j) The licensee shall contact the APS worker to request that the resident be relocated immediately when the licensee identifies that needs cannot be met or that the resident has a condition specified in Section ~~87593222~~(d).
 - (1) A licensee cannot retain a resident under age 60 beyond 30 calendar days from initial placement by the APS agency, unless the acceptance and retention requirement provided in Section ~~87582455~~(b)(6) is met. (Continued)
- (l) All emergency placements are subject to the same record requirements as set forth in Section ~~875706~~(d).

Authority cited: Sections 1569.30 and ~~1569.31~~, Health and Safety Code; and Senate Bill 2199 (Chapter 946, Statutes of 1998), Section 14 uncodified.

Reference: ~~Sections 15610.13 and 15763, Welfare and Institutions Code; and Sections 1569.1, 1569.2, 1569.31, 1569.312, 1569.315, 1569.316, 1569.47, 1569.54, 1569.698, 1569.699, 1569.71, 1569.72, and 1569.73, Health and Safety Code; Sections 15610.13 and 15763, Welfare and Institutions Code.~~

Renumber Section 87342.1 to Section 87223 and amend to read:

87342.1223 RELOCATION OF RESIDENT ~~—GENERAL~~

87342.1223

- (a) When a resident must be relocated by Department order whether individual health-condition relocations pursuant to Section ~~87701.1637~~, Health Condition Relocation Order, or temporary suspension orders pursuant to Section ~~87342775~~(c), the licensee shall not obstruct the relocation process and shall cooperate with the Department in the relocation process. Such cooperation shall include, but not be limited to, the following activities:
(Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569, 1569.1, 1569.2, ~~1569.30~~, 1569.31, 1569.312 and 1569.54, Health and Safety Code.

Renumber Section 87589 to Section 87224 and amend to read:

87589224 EVICTION PROCEDURES (Continued)

87589224

- (i) Nothing in Section 87589224 precludes the licensee from initiating the urgent relocation to a licensed health facility of a terminally ill resident receiving hospice services when the resident's condition has changed and a joint determination has been made by the Department, the resident or resident's health care surrogate decision maker, the resident's hospice agency, a physician, and the licensee, that the resident's continued retention in the facility poses a health and safety risk to the resident or any other facility resident.
- (1) The licensee shall follow the procedures specified in Section ~~87701.1~~637(b)(2) to reduce the risk of transfer trauma.

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, ~~1569.30~~, 1569.31, 1569.312, 1569.315, 1569.54, and 1569.73, ~~and 1770 et seq.~~, Health and Safety Code.

Amend Article 5. title to read:

Article 5. ~~Enforcement Provisions~~ Physical Environment and Accommodations

Renumber Section 87691 to Section 87303:

87691303 MAINTENANCE AND OPERATION (Continued)

87691303

(f) (Continued)

(2) (Continued)

HANDBOOK BEGINS HERE

(A) (Continued)

HANDBOOK ENDS HERE

(3) (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1 and 1569.31, Health and Safety Code; ~~and California Code of Regulations, Title 8, California Code of Regulations, Section 5193.~~

Renumber Section 87686 to Section 87305:

~~87686~~305 ALTERATIONS TO EXISTING BUILDINGS OR NEW FACILITIES ~~87686~~305
(Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.31 and 1569.312, Health and Safety Code.

Renumber Section 87577 to Section 87307 and amend to read:

~~8757~~307 PERSONAL ACCOMMODATIONS AND SERVICES
(Continued)

~~8757~~307

- (b) Toilets and bathrooms shall be conveniently located. The licensed capacity shall be established based on Section ~~87229~~158, Capacity, and the following: (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.31 and 1569.312, Health and Safety Code.

Renumber Section 87690 to Section 87308:

~~87690~~308 RESIDENT AND SUPPORT SERVICES (Continued)

~~87690~~308

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections ~~1569.30~~, 1569.31 and 1569.312, Health and Safety Code.

Renumber Section 87692 to Section 87309 and amend to read:

~~87692~~309 STORAGE SPACE (Continued)

~~87692~~309

- (b) Medicines shall be stored as specified in Section ~~87575~~465(c) and separately from other items specified in (a) above. (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, ~~1569.30~~, 1569.31 and 1569.312, Health and Safety Code.

Renumber Section 87573 to Section 87311:

~~87573~~311 TELEPHONES (Continued)

~~87573~~311

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2, 1569.31 and 1569.312, Health and Safety Code.

Renumber Section 87574 to Section 87312:

87574312 MOTOR VEHICLES USED IN TRANSPORTING RESIDENTS
(Continued)

87574312

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2, 1569.31 and 1569.312, Health and Safety Code.

Amend Article 6.title to read:

Article 6. ~~Administration and Staffing Requirements~~ Background Check

Renumber Section 87219 to Section 87355 and amend to read:

~~87219~~355 CRIMINAL RECORD CLEARANCE (Continued)

~~87219~~355

(b) (Continued)

HANDBOOK BEGINS HERE

~~(1)~~ (Continued)

~~(2)~~ (Continued)

~~(3)~~ (Continued)

(H) (Continued)

(iii) The exemptions in Section ~~87219~~355(b)(3)(H)(i) or (ii) apply only if the individual is visiting the client or providing direct care and supervision to that client only. (Continued)

~~(4)~~ (Continued)

~~(5)~~ (Continued)

HANDBOOK ENDS HERE

(c) (Continued)

HANDBOOK BEGINS HERE

~~(4)~~ (Continued)

HANDBOOK ENDS HERE

(d) (Continued)

(1) (Continued)

(A) Declare whether he/she has been convicted of a crime, other than a minor traffic violation as specified in Section ~~87219~~355(h) regardless of whether the individual was granted a pardon for the conviction, received an expungement pursuant to Penal Code 1203.4 or the individual's record was sealed as a result of a court order. (Continued)

(B) If convicted of a crime other than a minor traffic violation as specified in Section ~~87219~~355(h), provide information regarding the conviction.

(2) If the signed statement indicates a conviction for any crime other than a minor traffic violation for which the fine was \$300 or less, the licensee shall immediately notify the Department and the Department ~~will~~ shall take appropriate action as specified in Section 87219355(h). The Department shall take the same actions as would be taken in Health and Safety Code ~~Section~~ 1569.17(c) if a criminal record transcript had been received.

(3) The license shall submit these fingerprints to the California Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or comply with Section 87219355(c), prior to the individual's employment, residence, or initial presence in the ~~community care~~ facility.
(Continued)

(e) (Continued)

(2) Request a transfer of a criminal record clearance as specified in Section 87219355(c) or

(3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 87219-1356(r), unless, upon request for a transfer, the Department permits the individual to be employed, reside or be present at the facility.

(f) Violation of Section 87219355(e) ~~will~~ shall result in a citation of a deficiency and an immediate assessment of civil penalties of one hundred dollars (\$100) per violation per day for a maximum of five (5) days by the Department. (Continued)

(g) Violation of Section 87219355(e) may result in a denial of the license application or suspension and/or revocation of the license.

(h) If the criminal record transcript of any of the individuals specified in Health and Safety Code ~~Section~~ 1569.17(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine was less than \$300 and an exemption pursuant to Section 87219-1356(a) has not been granted, the Department shall take the following actions specified in Health and Safety Code ~~Section~~ 1569.17(c). (Continued)

HANDBOOK BEGINS HERE

(5) ~~Section 1569.17(e)(4) of the Health and Safety Code~~ section 1569.17(c)(3) provides in part:

"...If it is determined by the California State Department of Social Services determines, on the basis of the fingerprints images submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted for an offense specified in Section 243.4 [sexual battery], 273a, or 273d [child abuse], 273g, [lewd conduct in the presence of a child] or subdivision (a)

or ~~(b)~~ of Section 368 [elder or adult dependent abuse] of the Penal Code, or has been convicted of a felony, the California State Department of Social Services shall notify the licensee in writing within 15 calendar days of receipt of the notification from the Department of Justice to act immediately to terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential ~~community~~ care facility for the elderly. The California State Department of Social Services may subsequently grant an exemption pursuant to subdivision (f)....."

(A) Section 243.4 of the Penal Code provides in part:

1. ~~Any person who touches an intimate part of another person while that person is unlawfully restrained by the accused or an accomplice, and if the touching is against the will of the person touched and is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.~~
2. ~~Any person who touches an intimate part of another person who is institutionalized for medical treatment and who is seriously disabled or medically incapacitated, if the touching is against the will of the person touched, and if the touching is for the purpose of sexual arousal, gratification, or abuse, is guilty of sexual battery. Such an act is punishable by either imprisonment in the county jail for not more than one year or in the state prison for two, three, or four years.~~

(B) Section 273a of the Penal Code provides:

1. ~~Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer or inflicts thereon unjustifiable physical pain or mental suffering or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not to exceed one year, or in the state prison for 2, 3, or 4 years.~~
2. ~~Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.~~

(C) ~~Section 273d of the Penal Code provides:~~

1. ~~Any person who willfully inflicts upon any child cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 4, or 6 years, or in the county jail for not more than one year, or by a fine of up to six thousand dollars (\$6,000) or by both.~~

(D) ~~Section 368 of the Penal Code provides:~~

1. ~~Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured, or willfully causes or permits the elder or dependent adult to be placed in a situation such that his or her person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for two, three, or four years.~~
2. ~~Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any elder or dependent adult, with knowledge that he or she is an elder or a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any elder or dependent adult, willfully causes or permits the person or health of the elder or dependent adult to be injured or willfully causes or permits the elder or dependent adult to be placed in a situation such that his or her person or health may be endangered, is guilty of a misdemeanor.~~

(6) ~~Section 1569.17(e) of the Health and Safety Code~~ section 1569.17(c)(3) provides in part:

- (A) "If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the California State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the community residential care facility for the elderly; or (2) seek an exemption pursuant to subdivision (gf). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered by the department...."

(7) Health and Safety Code Section 1569.17(h) ~~of the Health and Safety Code~~ provides:

"If ~~the~~ a licensee or facility is required by law to deny employment or to terminate employment of any employee based written notification from the ~~state~~ department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1569.58, the licensee or the facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination."

HANDBOOK ENDS HERE

(i) (Continued)

(j) The licensee shall maintain documentation of criminal record clearances or criminal record exemptions of employees in the individual's personnel file as required in Section ~~87566~~412, Personnel Records. (Continued)

Authority cited: Sections 1569.30 and 1569.49(d), Health and Safety Code.

Reference: Sections 1569.17 and 1569.49, Health and Safety Code.

Renumber Section 87219.1 to Section 87356 and amend to read:

~~87219.1356~~

CRIMINAL RECORD EXEMPTION

~~87219.1356~~

- (a) The Department ~~will~~ shall notify a licensee to act immediately to terminate the employment of, remove from the facility or bar from entering the facility any person described in Sections ~~87219.1356~~(a)(1) through (5) below while the Department considers granting or denying an exemption. Upon notification, the licensee shall comply with the notice. (Continued)
- (b) In addition to the requirements of Section ~~87219.1356~~(a), the licensee must return the confirmation of removal form that is sent by the Department, within five (5) days of the date of the form, that confirms under penalty of perjury that the individual has been removed from the facility. (Continued)
- (d) To request a criminal record exemption, a licensee or license applicant must submit information that indicates that the individual meets the requirements of Section ~~87219.1356~~(c)(4). The Department will notify the licensee or license applicant and the affected individual, in concurrent separate notices, that the affected individual has a criminal conviction and needs to obtain a criminal record exemption.
 - (1) The notice to the affected individual shall include a list of the conviction(s) that the Department is aware of at the time the notice is sent that must be addressed in an exemption request. (Continued)
 - (3) (Continued)
 - (A) Individuals who submit a criminal record exemption request shall cooperate with the Department by providing any information requested by the Department, including, but not limited to, police reports and certified court documents to process the exemption request, pursuant to Section ~~87219.1356~~(e). (Continued)
- (j) (Continued)
 - (2) (Continued)
 - (A) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the Department may, in its discretion, grant a criminal record exemption notwithstanding Section ~~87219.1356~~(j)(2).

- (k) The Department shall consider granting a criminal record exemption if the individual's criminal history meets all of the applicable criteria specified in Sections 87219-1356(k)(1) through (6) and the individual provides the Department with substantial and convincing evidence of good character as specified in Section 87219-1356(c)(4). For purposes of this section, a violent crime is a crime that, upon evaluation of the code section violated and/or the reports regarding the underlying offense, presents a risk of harm or violence. (Continued)
- (7) If the individual is currently on probation, and provides sufficient proof that the probationary period(s) is informal, unsupervised and no probation officer is assigned, the period of lapsed time required in Sections 87219-1356(k)(1) through (5) above shall begin from the last date of conviction(s).
- (l) It shall be a rebuttable presumption that an individual is not of such good character as to justify the issuance of an exemption if the individual fails to meet the requirements specified in Sections 87219-1356(k)(1) through (6). (Continued)
- (n) The Department shall consider granting a simplified criminal record exemption if the individual has the criminal history profile outlined in Sections 87219-1356(n)(1) through (4) below: (Continued)
- (q) If a request for an exemption has been denied, the individual shall be excluded for a period of two years unless the individual has been convicted of a crime for which no exemption may be granted pursuant to Section 87219-1356(m). If a request for an exemption has been denied based on a conviction of a crime for which no exemption may be granted, the individual shall be excluded for the remainder of the individual's life. (Continued)
- (3) If an individual who has previously been denied an exemption re-applies after the relevant time period described in Section 87219-1356(q)(1) above, the Department may, in accordance with the provisions in Section 87219-1356 et seq., grant or deny the subsequent request for an exemption.
- (4) If an individual submits a petition pursuant to Government Code Section 11522 for reinstatement or reduction of penalty for an exclusion, an individual must submit his/her fingerprints through an electronic fingerprinting system approved by the Department and submit to the Department a statement of the reason why the individual should be permitted to work or be present in a facility, along with all information required of an individual requesting a criminal record exemption as provided in Section 87219-1356. If it is determined, based upon information provided by the Department of Justice, that the individual has been convicted of a crime for which no exemption may be granted, the petition shall be denied. An individual's failure to submit fingerprints or other information as requested by the Department, shall be grounds for denial of the petition. The burden shall be on the petitioner to prove sufficient rehabilitation and good character to justify the granting of the petition. (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Section 1569.17, Health and Safety Code; ~~and~~ Gresher v. Anderson (2005)
127 Cal. App. 4th 88.

Amend Article 7. title to read:

Article 7. ~~Physical Environment~~ Personnel

Renumber Section 87564 to Section 87405 and amend to read:

8756405 ADMINISTRATOR - QUALIFICATIONS AND DUTIES
(Continued)

8756405

- (d) The administrator shall have the qualifications specified in Sections 8756405(d)(1) through (7). If the licensee is also the administrator, all requirements for an administrator shall apply. (Continued)
- (h) Administrators employed/licensed prior to July 1, 1982, shall not be required to comply with the college and continuing education requirements in Section 8756405(e) or the college requirements in Section 8756405(f) provided that they have no break in employment as an RCFE Residential Care Facility for the Elderly administrator exceeding three (3) consecutive years.
- (i) (Continued)
 - (5) Provide or ensure the provision of services to the residents with appropriate regard for the residents' physical and mental well-being and needs, including those services identified in the residents' pre-admission appraisal, specified in Section 87583457, Pre-admission Appraisal. (Continued)

Authority cited: Sections 1569.30 and 1569.616(j), Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.17, ~~1569.30~~, 1569.31, 1569.312, 1569.315, 1569.613, 1569.616, and 1569.62, Health and Safety Code.

Renumber Section 87564.2 to Section 87406 and amend to read:

87564.2406 ADMINISTRATOR CERTIFICATION REQUIREMENTS 87564.2406

- (a) All individuals shall be certificate holders prior to being employed as an administrator, or shall have submitted to the Department the documentation required to obtain a certificate pursuant to Section 87564.2406(b). (Continued)

(2) (Continued)

(A) As a condition to becoming a certified administrator of another facility, a holder of a conditional certificate issued pursuant to Section 87564.2406(a)(2) shall be required to pass the written test.

(B) As a condition to applying for a new facility license, the holder of a conditional certificate issued pursuant to Section 8756406(a)(2) shall be required to pass the written test.

- (3) An applicant for licensure shall be subject to the same application process for Initial Certification of Administrators as set forth in Section 87564.2406(b).

(b) (Continued)

- (1) Unless exempted by Section 87564.2406(a)(1), successfully complete a Department-approved Initial Certification Training Program.

- (2) Unless exempted by Section 87564.2406(a)(1) or (a)(2), pass a written test administered by the Department within sixty (60) days of completion of an Initial Certification Training Program.

(3) (Continued)

(A) Proof that the applicant has successfully completed a Department-approved Initial Certification Training Program or, in the case of a Nursing Home Administrator, proof of completion of 12 hours of classroom instruction as specified in Section 87564.2406(a)(1).

(B) Documentation of passing the written test or qualifying for an exemption pursuant to Section 87564.2406(a)(1) or (a)(2). (Continued)

- (g) Time deadlines specified in Sections 87564.2406(b)(2) and (3) may be extended for good cause as determined by the Department. Any request for an extension of time shall be in writing and shall contain a statement of all facts the applicant believes constitute good cause to extend a time deadline.

Authority cited: Sections 1569.23(d), 1569.30 and 1569.616(j), Health and Safety Code.

Reference: Sections 1569.17, 1569.171, 1569.23, ~~1569.30~~, 1569.315, 1569.613, and 1569.616, Health and Safety Code.

Renumber Section 87564.3 to Section 87407 and amend to read:

~~87564.3~~407 ADMINISTRATOR RECERTIFICATION REQUIREMENTS

~~87564.3~~407

(a) (Continued)

(1) (Continued)

(2) ~~Courses provided by vendors approved by the Department, or~~

(3) ~~Accredited educational institutions offering courses that are consistent with the requirements of this section, or~~

HANDBOOK BEGINS HERE

(A) ~~Examples of accredited educational institutions are community colleges and state colleges.~~

HANDBOOK ENDS HERE

(4) ~~Courses offered by vendors approved by other California State agencies provided that:~~

(A) ~~The approval and enforcement procedures of the state agency are comparable to the approval and enforcement procedures of the Department, and~~

(B) ~~The course relates to the Core of Knowledge as specified in Sections 87730(h)(1)(A) through (I).~~

HANDBOOK BEGINS HERE

(C) ~~Prior to taking a course from one of the entities specified in Sections 87564.3(a)(2) or (3), the certificate holder should study the course description carefully to ensure that it fits within the Core of Knowledge as specified in Sections 87730(h)(1)(A) through (I). If the course does not fit within the Core of Knowledge, it may not be credited toward the recertification requirement.~~

(D) ~~Examples of other California State agencies that meet the requirements specified in Section 84064.3(a) are the Department of Developmental Services, Department of Rehabilitation, Board of Behavioral Science Examiners and Board of Psychology.~~

HANDBOOK ENDS HERE

- (b) Continuing education hours must be related to the Core of Knowledge and be completed through any combination of the following:

- (1) Courses provided by vendors approved by the Department, or
- (2) Accredited educational institutions offering courses that are consistent with the requirements of this section, or

HANDBOOK BEGINS HERE

Examples of accredited educational institutions are community colleges and state colleges.

HANDBOOK ENDS HERE

- (3) Courses offered by vendors approved by other California State agencies provided that:
 - (A) The approval and enforcement procedures of the state agency are comparable to the approval and enforcement procedures of the Department, and
 - (B) The course relates to the Core of Knowledge as specified in Sections 87785(h)(1)(A) through (I).

HANDBOOK BEGINS HERE

Prior to taking a course from one of the entities specified in Sections 87407(a)(2) or (3), the certificate holder should study the course description carefully to ensure that it fits within the Core of Knowledge as specified in Sections 87785(h)(1)(A) through (I). If the course does not fit within the Core of Knowledge, it may not be credited toward the recertification requirement.

Examples of other California State agencies that meet the requirements specified in Section 84064.3(a) are the Department of Developmental Services, Department of Rehabilitation, Board of Behavioral Science Examiners and Board of Psychology.

HANDBOOK ENDS HERE

(c) (Continued)

(d) (Continued)

- (2) Evidence of completion of forty (40) continuing education hours as specified in Section 87564.3407(a). (Continued)

(e) (Continued)

- (2) Evidence of completion of the required continuing education hours as specified in Section ~~87564.3407~~(a). The total number of hours required for recertification shall be determined by computing the number of continuing education hours the certificate holder would have been required to complete if they had remained certified. The date of computation shall be the date the written request for recertification is received by the Department. (Continued)

(f) (Continued)

- (1) Holders of certificates not renewed within four (4) years of their expiration date shall complete an Initial Certification Training Program as specified in Section ~~87564.2406~~(b).

(g) (Continued)

Authority cited: Sections 1569.30 and 1569.616(j), Health and Safety Code.

Reference: Sections 1569.17, 1569.171, 1569.23, 1569.315, 1569.613 and 1569.616, Health and Safety Code.

Renumber Section 87564.4 to Section 87408 and amend to read:

87564.4408	DENIAL OR REVOCATION OF A ADMINISTRATOR CERTIFICATE <u>DENIAL OR REVOCATION</u> (Continued)	87564.4408
------------	---	------------

Authority cited: Sections 1569.30 and 1569.616(j), Health and Safety Code.

Reference: Sections 1569.16, 1569.51, 1569.613, and 1569.616, Health and Safety Code.

Renumber Section 87564.5 to Section 87409 and amend to read:

87564.5409 ~~FORFEITURE OF A~~ ADMINISTRATOR CERTIFICATE 87564.5409
FORFEITURE

- (a) Unless otherwise ordered by the Department, the certificate shall be considered forfeited under any of the following conditions: (Continued)
- (2) The Department has issued an exclusion order against the certificate holder pursuant to Health and Safety Code Sections 1558, 1568.092, 1569.58 or ~~1596.8897~~ after the Department issued the certificate, and; (Continued)

Authority cited: Sections 1569.30 and 1569.616(j), Health and Safety Code.

Reference: Sections 1558, 1568.092, 1569.16, 1569.50, 1569.58, 1569.616 and 1569.8897, Health and Safety Code.

Renumber Section 87565 to Section 87411, and Section 87575(f)(4), Section 87565(c)(1), (c)(2) et seq., (c)(3) et seq., (c)(4), and (c)(5) to Sections 87411(c)(1), (c)(2), (c)(3) et seq., (c)(4) et seq., (c)(5), (c)(6) respectively, and amend to read:

87565411 PERSONNEL REQUIREMENTS - GENERAL

87565411

- (a) Facility personnel shall at all times be sufficient in numbers, and competent to provide the services necessary to meet resident needs. In facilities licensed for sixteen or more, sufficient support staff shall be employed to ensure provision of personal assistance and care as required in Section 87578608, Postural Supports. Additional staff shall be employed as necessary to perform office work, cooking, house cleaning, laundering, and maintenance of buildings, equipment and grounds. The licensing agency may require any facility to provide additional staff whenever it determines through documentation that the needs of the particular residents, the extent of services provided, or the physical arrangements of the facility require such additional staff for the provision of adequate services. (Continued)
- (c) (Continued)
- (1) Staff providing care shall receive appropriate training in first aid from persons qualified by such agencies as the American Red Cross.
- (~~12~~) (Continued)
- (~~23~~) (Continued)
- (C) Residents' rights, as specified in Section 87572468-, Personal Rights.
- (D) Policies and procedures regarding medications, including the knowledge in Section 87565411(d)(4). At least two (2) of the required ten (10) hours shall cover this subject. Any on-the-job training provided for the requirements in Section 87565411(d)(4) may also count towards the requirement in this subsection. (Continued)
- (~~34~~) (Continued)
- (~~45~~) Training may include use of books, video instruction tapes, interactive CD-ROMs and similar materials, upon the approval of that material by a trainer who satisfies the criteria of Section 87565411(c)(3).

(56) The licensee shall maintain documentation pertaining to staff training in the personnel records, as specified in Section 87566412(c)(2). For on-the-job training, documentation shall consist of a statement or notation, made by the trainer, of the content covered in the training. Each item of documentation shall include a notation that indicates which of the criteria of Section 87565411(c)(3) is met by the trainer.
(Continued)

(e) In facilities licensed for sixteen (16) or more, the requirements of Section 87565411(d) shall be met with planned on the job training program that utilizes orientation, skill training and continuing education. (Continued)

(g) (Continued)

(2) Request a transfer of a criminal record clearance as specified in Section 87219355(c) or

(3) Request and be approved for a transfer of a criminal record exemption, as specified in Section 87219-1356(r), unless, upon request for a transfer, the Department permits the individual to be employed, reside or be present at the facility.

(h) (Continued)

Authority cited: Sections 1569.30 and 1569.625, Health and Safety Code.

Reference: Sections 1569.17, ~~1569.30~~, 1569.31, 1569.312, and 1569.625, Health and Safety Code; and Section 42001, Vehicle Code.

Renumber Section 87566 to Section 87412 and amend to read:

~~87566~~412 PERSONNEL RECORDS

~~87566~~412

(a) (Continued)

(6) Educational background.

(A) For administrators this shall include verification that he/she meets the educational requirements in Sections ~~87564~~05(b) and (c). (Continued)

(11) A health screening as specified in Section ~~87565~~411, Personnel Requirements - General.

(12) Hazardous health conditions documents as specified in Section ~~87565~~411, Personnel Requirements - General.

(13) For employees that are required to be fingerprinted pursuant to Section ~~80019~~355, Criminal Record Clearance:

(A) A signed statement regarding their criminal record history as required by Section ~~87219~~355(d).

(B) Documentation of either a criminal record clearance or a criminal record exemption as required by Section ~~87219~~355(e). (Continued)

(b) Personnel records shall be maintained for all volunteers and shall contain the following:

(1) A health statement as specified in Section ~~87565~~411(e).

(2) Health screening documents as specified in Section ~~87565~~411(e).

(3) For volunteers that are required to be fingerprinted pursuant to Section ~~87219~~355, Criminal Record Clearance:

(A) A signed statement regarding their criminal record history as required by Section ~~87219~~355(d).

(B) Documentation of either a criminal record clearance or a criminal record exemption as required by Section ~~87219~~355(e).

(c) (Continued)

(1) The following staff training and orientation shall be documented:

(A) For staff who assist with personal activities of daily living, there shall be documentation of at least ten hours of initial training within the first four weeks of employment, and at least four hours of training annually thereafter in one or more of the content areas as specified in Section ~~87565~~411(c)(2).

(B) (Continued)

1. The orientation received as specified in Section ~~87725.1~~707(a)(1).

2. The in-service training received as specified in Section ~~87725.1~~707(a)(2). (Continued)

(d) The licensee shall maintain documentation that an administrator has met the certification requirements specified in Section ~~87564.2406~~, Administrator Certification Requirements or the recertification requirements in Section ~~87564.3407~~, Administrator Recertification Requirements. (Continued)

(g) All personnel records shall be maintained at the facility.

(1) The licensee shall be permitted to retain such records in a central administrative location provided that they are readily available to the licensing agency at the facility as specified in Section ~~87566~~412(f). (Continued)

Authority cited: Sections 1569.30 and 1569.616(j), Health and Safety Code.

Reference: Sections 1569.17(c), 1569.31, 1569.312, 1569.613, 1569.616, and 1569.625, and 1569.626, Health and Safety Code.

Renumber Section 87580 to Section 87413:

87580413 PERSONNEL – OPERATIONS (Continued)

87580413

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, ~~1569.30~~, 1569.31 and 1569.312, Health and Safety Code.

Renumber Section 87581 to Section 87415 and amend to read:

~~87581~~415 NIGHT SUPERVISION

~~87581~~415

- (a) The following persons providing night supervision from 10:00 p.m. to 6:00 a.m. shall be familiar with the facility's planned emergency procedures, shall be trained in first aid as required in Section ~~87575~~465, Incidental Medical and Dental Care Services, and shall be available as indicated below to assist in caring for residents in the event of an emergency. (Continued)

- (5) In facilities required to have a signal system, specified in Section ~~87691~~303, Maintenance and Operation, at least one night staff person shall be located to enable immediate response to the signal system. If the signal system is visual only, that person shall be awake. (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, ~~1569.30~~, 1569.31 and 1569.312, Health and Safety Code.

Amend Article 8. title to read:

Article 8. ~~Incidental Medical Services~~ Resident Assessments, Fundamental Services and Rights

Renumber Section 87452 to Sections 87756(c) through (e):

87452 DEFICIENCIES IN COMPLIANCE

87452

- (a) ~~When a routine visit, evaluation or investigation of a complaint is conducted and the evaluator determines that a deficiency exists, the evaluator shall issue a notice of deficiency, unless the deficiency is minor and corrected during the visit.~~
- (b) ~~Prior to completion of a visit, evaluation or investigation, the evaluator shall meet with the licensee, administrator, operator, or other person in charge of the facility to discuss any deficiencies noted. At the meeting, a plan for correcting each deficiency shall be developed and included in the notice of deficiency. Prior to completion of the visit the evaluator shall serve the notice of deficiency on the licensee by either:~~
 - (1) ~~Personal delivery to the licensee, or~~
 - (2) ~~If the licensee is not at the facility site, leaving the notice with the person in charge of the facility and also mailing a copy to the licensee.~~
 - (3) ~~If the licensee or the person in charge of the facility refuses to accept the notice, a notation of the refusal shall be written on the notice and a copy left at the facility.~~
 - (A) ~~Under such circumstances, a copy of the notice shall also be mailed to the licensee.~~
- (e) ~~The notice of deficiency shall be in writing and shall include:~~
 - (1) ~~A reference to the statute or regulation upon which the deficiency is premised.~~
 - (2) ~~A factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with specified statute or regulation, and the particular place or area of the facility in which it occurred.~~
 - (3) ~~The plan developed, as specified in (b) above, for correcting each deficiency.~~
 - (4) ~~A date by which each deficiency shall be corrected.~~
 - (A) ~~In prescribing the date for correcting a deficiency, the evaluator shall consider the following factors:~~
 - 1. ~~The seriousness of the deficiency.~~
 - 2. ~~The number of residents affected.~~

3. ~~The availability of equipment or personnel necessary to correct the deficiency.~~
4. ~~The estimated time necessary for delivery and any installation of necessary equipment.~~
- (B) ~~The evaluator shall require correction of the deficiency within 24 hours and shall specify on the notice the date by which the correction must be made whenever penalties are assessed pursuant to Sections 87454(e), (d) and (e).~~
- (C) ~~The date for correcting a deficiency shall not be more than 30 calendar days following service of the notice of deficiency, unless the evaluator determines that the deficiency cannot be completely corrected in 30 calendar days. If the date for correcting the deficiency is more than 30 days following service of the notice of deficiency the notice shall specify action which must be taken within 30 calendar days to begin correction.~~
- (5) ~~The amount of penalty which shall be assessed and the date the penalty shall begin if the deficiency is not corrected by the specific due date.~~
- (6) ~~The address and telephone number of the licensing office responsible for reviewing notices of deficiencies for the area in which the facility is located.~~

Authority cited: Section 1569.30 and 1569.49, Health and Safety Code.

Reference: Sections 1569.30, 1569.31, 1569.312, 1569.315, 1569.335, 1569.485, 1569.49 and 1589.49, Health and Safety Code.

Renumber Section 87582 to Section 87455 and amend to read:

~~87582~~455 ACCEPTANCE AND RETENTION LIMITATIONS

~~87582~~455

- (a) Acceptance or retention of residents by a facility shall be in accordance with the criteria specified in this article 8 and ~~in the Incidental Medical Services, Section 87700~~605, Health and Safety Protection, and the following. (Continued)
- (c) (Continued)
 - (3) (Continued)
 - (B) Dementia, unless the requirements of Section ~~87724~~405, Care of Persons with Dementia, are met.
 - (4) The resident is bedridden, other than for a temporary illness or for recovery from surgery, except as otherwise provided in Section ~~87582~~455(f). (Continued)
- (i) Renumbered to Section 87701.3.
- (j) Renumbered to Section 87637.

Authority cited: Sections 1569.30 and 1569.698, Health and Safety Code.

Reference: Sections 1250, 1569.1, 1569.2, ~~1569.30~~, 1569.31, 1569.312, 1569.54, 1569.699, and 1569.72, Health and Safety Code.

Renumber Section 87567 to Section 87456 and amend to read:

~~87567~~456 ~~GENERAL~~ EVALUATION OF SUITABILITY FOR
ADMISSION

~~87567~~456

- (a) Prior to accepting a resident for care and in order to evaluate his/her suitability, the facility shall, as specified in this article 8: (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, ~~1569.30~~, 1569.31 and 1569.312, Health and Safety Code.

Renumber Section 87583 to Section 87457 and amend to read:

87583457 PRE-ADMISSION APPRAISAL —~~GENERAL~~ (Continued)

87583457

- (c) Prior to admission a determination of the prospective resident's suitability for admission shall be completed and shall include an appraisal of his/her individual service needs in comparison with the admission criteria specified in Section 87582455, Acceptance and Retention Limitations.
- (1) The appraisal shall include, at a minimum, an evaluation of the prospective resident's functional capabilities, mental condition and an evaluation of social factors as specified in Sections 8758459, Functional Capabilities through ~~87586~~ and 87462, Social Factors. (Continued)
- (2) Except as provided in Section 87701.5638(g)(3), if an initial appraisal or any reappraisal identifies an individual resident service need which is not being met by the general program of facility services, advice shall then be obtained from a physician, social worker, or other appropriate consultant to determine if the needs can be met by the facility. If so, the licensee and the consultant shall develop a plan of action which shall include: (Continued)
- (3) (Continued)
- (A) ~~The licensee shall be permitted to use the form LIC 9027 (Rev. 1/89), Resident's Health Status — Summary, to summarize all findings of the appraisal, but the LIC 9027 shall not be used as a substitute for the detailed information required by this section and Section 87569.~~ (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, ~~1569.31~~ and 1569.312, Health and Safety Code.

Renumber Section 87569 to Section 87458 and amend to read:

~~87569~~458 MEDICAL ASSESSMENT (Continued)

~~87569~~458

- (b) The medical assessment shall include, but not be limited to: (Continued)
- (3) A record of current prescribed medications, and an indication of whether the medication should be centrally stored, pursuant to ~~s~~Section ~~87575~~465(h)(1). (Continued)
 - (5) The determination whether the person is ambulatory or nonambulatory as defined in Section 87101(a) or (n), or bedridden as defined in Section ~~87582~~455(d). The assessment shall indicate whether nonambulatory status is based upon the resident's physical condition, mental condition or both.
 - (6) Information applicable to the pre-admission appraisal specified in ~~s~~Section ~~87583~~457, Pre-admission Appraisal. (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, ~~1569.30~~, 1569.31, 1569.312, 1569.315, and 1569.54, Health and Safety Code.

Renumber Section 87584 to Section 87459:

8758459 FUNCTIONAL CAPABILITIES (Continued)

8758459

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1250, 1569.1, 1569.2, ~~1569.30~~, 1569.31, 1569.312 and 1569.315,
Health and Safety Code.

Renumber Section 87585 to Section 87461:

~~87585~~461 MENTAL CONDITION (Continued)

~~87585~~461

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, ~~1569.30~~, 1569. 31, 1569.312 and 1569.316(a),
Health and Safety Code.

Renumber Section 87586 to Section 87462:

~~87586~~462 SOCIAL FACTORS (Continued)

~~87586~~462

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, ~~1569.30~~, 1569.31, and 1569.312, Health and Safety Code.

Renumber Section 87587 to Section 87463 and amend to read:

87587463 REAPPRAISALS

87587463

(a) (Continued)

(3) Any illness, injury, trauma, or change in the health care needs of the resident that results in a circumstance or condition specified in Sections 87582455(c) or 87701615, Prohibited Health Conditions. (Continued)

(c) The licensee shall arrange a meeting with the resident, the resident's representative, if any, appropriate facility staff, and a representative of the resident's home health agency, if any, when there is significant change in the resident's condition, or once every 12 months, whichever occurs first, as specified in Section 87583.1467, Resident Participation in Decision Making.

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.156, 1569.2, ~~1569.30~~, 1569.31, 1569.312 and 1569.315, Health and Safety Code.

Renumber Section 87590 to Section 87464 and amend to read:

~~87590~~464 BASIC SERVICES (Continued)

~~87590~~464

- (d) A facility need not accept a particular resident for care. However, if a facility chooses to accept a particular resident for care, the facility shall be responsible for meeting the resident's needs as identified in the pre-admission appraisal specified in Section ~~87583~~457, Pre-admission Appraisal and providing the other basic services specified below, either directly or through outside resources. (Continued)
- (f) Basic services shall at a minimum include:
 - (1) Safe and healthful living accommodations and services, as specified in Section ~~87577~~307, Personal Accommodations and Services.
 - (2) Three nutritionally well-balanced meals and snacks made available daily, including low salt or other modified diets prescribed by a doctor as a medical necessity, as specified in Section ~~87576~~55, General Food Service Requirements.
 - (3) Personal assistance and care as needed by the resident and as indicated in the pre-admission appraisal, with those activities of daily living such as dressing, eating, bathing and assistance with taking prescribed medications, as specified in Section ~~87578~~608, Postural Supports.
 - (4) Regular observation of the resident's physical and mental condition, as specified in Section ~~87591~~466, Observation of the Resident.
 - (5) Arrangements to meet health needs, including arranging transportation, as specified in Section ~~87575~~465, Incidental Medical and Dental Care Services.
 - (6) A planned activities program which includes social and recreational activities appropriate to the interests and capabilities of the resident, as specified in Section ~~87579~~219, Planned Activities.

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, ~~1569.30~~, 1569.31, 1569.312 and 1569.313, Health and Safety Code; and ~~Section 11006.9~~ and Section 12350, Welfare and Institutions Code.

Renumber Section 87575 to Section 87465 and Section 87575 (f)(4) to Section 87411(c)(1) and amend to read:

~~87575~~465 INCIDENTAL MEDICAL AND DENTAL CARE SERVICES (Continued)~~87575~~465

(c) (Continued)

- (1) There is written direction from a physician, on a prescription blank, specifying the name of the resident, the name of the medication, all of the information in Section ~~87575~~465(e), instructions regarding a time or circumstance (if any) when it should be discontinued, and an indication when the physician should be contacted for a medication reevaluation. (Continued)

(f) Emergency care requirements shall include the following: (Continued)

- ~~(4) Staff providing care shall receive appropriate training in first aid from persons qualified by such agencies as the American Red Cross.~~

(g) The licensee shall immediately telephone 9-1-1 if an injury or other circumstance has resulted in an imminent threat to a resident's health including, but not limited to, an apparent life-threatening medical crisis except as specified in Sections ~~87575.1469~~(c)(2) or (c)(3). (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections ~~1250~~, 1569.1, 1569.2, ~~1569.30~~, 1569.31, 1569.312, and 1569.73, Health and Safety Code.

Renumber Section 87591 to Section 87466:

~~87591~~466 OBSERVATION OF THE RESIDENT

~~87591~~466

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, ~~1569.30~~, 1569.31 and 1569.312, Health and Safety Code.

Renumber Section 87583.1 to Section 87467 and amend to read:

~~87583.1467~~ RESIDENT PARTICIPATION IN DECISION MAKING ~~87583.1467~~

- (a) Prior to, or within two weeks of the resident's admission, the licensee shall arrange a meeting with the resident, the resident's representative, if any, appropriate facility staff, and a representative of the resident's home health agency, if any, and any other appropriate parties, to prepare a written record of the care the resident will receive in the facility, and the resident's preferences regarding the services provided at the facility. (Continued)
- (3) The licensee shall arrange a meeting with the resident and appropriate individuals identified in Section ~~87583.1467~~(a)(1) to review and revise the written record as specified, when there is a significant change in the resident's condition, or once every 12 months, whichever occurs first. Significant changes shall include, but not be limited to occurrences specified in Section ~~87587463~~, Reappraisals.
- (4) The meeting and documentation described in this section may be used to satisfy the reappraisal requirements of Section ~~87587463~~, Reappraisals.

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections ~~1569.80~~ and 1569.156 and 1569.80, Health and Safety Code.

Renumber Section 87572 to Section 87468:

87572468 PERSONAL RIGHTS (Continued)

87572468

(10) (Continued)

HANDBOOK BEGINS HERE

(A) ~~Section 1569.313 of the Health and Safety Code~~ section 1569.313 provides that: (Continued)

HANDBOOK ENDS HERE

(11) (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, ~~1569.30~~, 1569.31, 1569.312, and 1569.313, Health and Safety Code.

Renumber Section 87575.1 to Section 87469 and amend to read:

~~87575.1469~~ ADVANCE HEALTH CARE DIRECTIVES, REQUESTS ~~87575.1469~~
TO FOREGO RESUSCITATIVE MEASURES, AND
DO-NOT-RESUSCITATE FORMS

- (a) Upon admission, a facility shall provide each resident, and representative or responsible person of each resident, with written information about the right to make decisions concerning medical care. This information shall include, but not be limited to, the department's approved brochure entitled "Your Right To Make Decisions About Medical Treatment," PUB 325, (3/99) and a copy of Sections ~~87575.1469~~(b) and (c) of the regulations. (Continued)
- (d) After following the procedure in Section ~~87575.1469~~(c)(1), (2), or (3), facility staff shall notify the resident's hospice agency and health care surrogate decision maker, if applicable.

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.74 and 1569.156, Health and Safety Code; ~~and~~ Sections 4753; and 4670, Probate Code.

Amend Article 9. title to read:

Article 9. ~~Administrator Certification Training Programs~~ Resident Records

Renumber Section 87588 to Section 87505 and amend to read:

8758805 DOCUMENTATION AND SUPPORT

8758805

Each facility shall document in writing the findings of the pre-admission appraisal and any reappraisal or assessment which was necessary in accordance with Sections ~~87583~~457, Pre-Admission Appraisal, and ~~87587~~463, Reappraisals. If supporting documentation from a physician is required, this input shall also be obtained and may be the same assessment as required in Section ~~87569~~458, Medical Assessment.

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections ~~1569.30~~, 1569.1, 1569.156, 1569.2, 1569.31, 1569.312, 1569.315, Health and Safety Code.

Renumber Section 87570 to Section 87506 and amend to read:

8757006 RESIDENT RECORDS (Continued)

8757006

(b) Each record shall contain at least the following information: (Continued)

- (8) Reports of the medical assessment specified in sSection 87569458 Medical Assessment, and of any special problems or precautions.
- (9) The documentation required by Section 87702-1611(a) for residents with an allowable health condition. (Continued)
- (12) Current centrally stored medications as specified in sSection 87575465, Incidental Medical and Dental Care Services.
- (13) The admission agreement and pre-admission appraisal, specified in sSections 8756807, Admission Agreements and 87583457, Pre-admission Appraisal.
- (14) Records of resident's cash resources as specified in sSection 8722717, Safeguards for Resident Cash, Personal Property, and Valuables.
- (15) Documents and information required by the following:
 - (A) Section 87583457, Pre-Admission Appraisal –General;
 - (B) Section 87584459, Functional Capabilities;
 - (C) Section 87585461, Mental Condition;
 - (D) Section 87586462, Social Factors;
 - (E) Section 87587463, Reappraisals; and
 - (F) Section 8758805, Documentation and Support. (Continued)

(d) (Continued)

(1) (Continued)

- (A) Religious preference, if any, and name and address of clergyman or religious advisor, if any, as specified in Section 8757006(b)(5).
- (B) Name, address, and telephone number of responsible person(s) as specified in Section 8757006(b)(6).

- (C) Name, address, and telephone number of the resident's physician and dentist as specified in Section 8757006(b)(7).
- (D) Information relating to the resident's medical assessment and any special problems or precautions as specified in Section 8757006(b)(8).
- (E) Documentation required for residents with an allowable health condition as specified in Section 8757006(b)(9).
- (F) Information on ambulatory status as specified in Section 8757006(b)(10).
- (G) Continuing record of any illness, injury, or medical or dental care when it affects the resident's ability to function, or services needed, as specified in Section 8757006(b)(11).
- (H) Records of current medications as specified in Section 8757006(b)(12).
(Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.31, 1569.312, and 1569.315, Health and Safety Code; and Section 11006.9, Welfare and Institutions Code.

Renumber Section 87568 to Section 87507 and amend to read:

8756807 ADMISSION AGREEMENTS (Continued)

8756807

(c) Agreements shall specify the following: (Continued)

(5) Refund conditions.

(A) When the Department orders relocation of a resident under the provisions of Section ~~87701.1612~~(a), the resident shall not be held responsible for meeting any advance notice requirement imposed by the licensee in the admission agreement. The licensee shall refund any money to which the resident would have been entitled had notice been given as required by the admission agreement. (Continued)

(8) Those actions, circumstances, or conditions specified in Section ~~87589224~~, Eviction Procedures, which may result in the resident's eviction from the facility. Except for general facility policies developed pursuant to Section ~~87589224~~(a)(3), the eviction provisions shall not be modified.

(9) (Continued)

HANDBOOK BEGINS HERE

(A) ~~Section 1569.313 of the Health and Safety Code~~ section 1569.313 provides that: (Continued)

HANDBOOK ENDS HERE

(10) (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.159, ~~1569.30~~, 1569.31, 1569.312, 1569.313 and 1569.54, ~~and 1770 et seq.~~, Health and Safety Code.

Renumber Section 87571 to Section 87508 and amend to read:

~~87571~~08 REGISTER OF RESIDENTS

~~87571~~08

(a) (Continued)

- (1) The resident's name and ambulatory status as specified in Section ~~87570~~06(b)(1) and (b)(10).
- (2) Information on the resident's attending physician as specified in Section ~~87570~~06(b)(7).
- (3) Information on the resident's responsible person as specified in Section ~~87570~~06(b)(6). (Continued)

(c) (Continued)

- (1) The register shall be treated as confidential information pursuant to Section ~~87570~~06(c).

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Section 1569.315, Health and Safety Code.

Adopt Article 10. title to read:

Article 10. Food Services

Renumber Section 87576 to Section 87555 and amend to read:

8757655 GENERAL FOOD SERVICE REQUIREMENTS (Continued)

8757655

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, ~~1569.30~~, 1569.31 and 1569.312, Health and Safety Code.

Adopt Article 11. title to read:

Article 11. Health-Related Services and Conditions

Renumber Section 87700 to Section 87605 and amend to read:

~~87700~~605 HEALTH AND SAFETY PROTECTION (Continued)

~~87700~~605

- (b) The provisions of this article 11 shall be applicable and in conjunction with Articles 1 through 10 and 12 through 713 of this chapter 8. (Continued)

Authority cited: Sections 1569.30(a), and 1569.698(c), Health and Safety Code.

Reference: Sections 1569.2, 1569.301, and 1569.312, Health and Safety Code; and Section 680, Business and Professions Code.

Renumber Section 87575.2 to Section 87607 and amend to read:

~~87575.2607~~ AUTOMATED EXTERNAL DEFIBRILLATORS (AEDS) ~~87575.2607~~

(a) (Continued)

- (5) Use of an AED shall be reported as specified in Section ~~87561211~~, Reporting Requirements.
- (6) Requests to Forego Resuscitative Measures, Advance Directives and Do-Not-Resuscitate Orders shall be observed as specified in Section ~~87575.1469~~, Advance Health Care Directives, Requests to Forego Resuscitative Measures, and Do-Not-Resuscitate Forms.

Authority Cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1250, 1569.1, 1569.2, ~~1569.30~~, 1569.31, 1569.312, 1569.73, and 1797.196, Health and Safety Code.

Renumber Section 87578 to Section 87608 and amend to read:

87578608 ~~PERSONAL ASSISTANCE AND CARE~~ POSTURAL SUPPORTS

87578608

(a) (Continued)

- (4) Prior to the use of postural supports that change the ambulatory status of a resident to non-ambulatory, the licensee shall ensure that the appropriate fire clearance, as required by ~~s~~Section 872202, Fire Clearance has been secured. (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.31, and 1569.312, Health and Safety Code.

Renumber Section 87702 to Section 87609 and amend to read:

~~87702~~609 ALLOWABLE HEALTH CONDITIONS AND THE USE OF HOME HEALTH AGENCIES ~~87702~~609

- (a) A licensee shall be permitted to accept or retain persons who have a health condition(s) which requires incidental medical services including, but not limited to, the conditions specified in Section ~~87701-1612~~, Restricted Health Conditions. (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2, 1569.312, and 1569.725, Health and Safety Code.

Renumber Section 87702.1 to Section 87611 and amend to read:

~~87702.1~~611 GENERAL REQUIREMENTS FOR ALLOWABLE ~~87702.1~~611
HEALTH CONDITIONS

- (a) Prior to accepting or retaining a resident with an allowable health condition as specified in Section ~~87703~~618, Oxygen Administration - Gas and Liquid; Section ~~87704~~619, Intermittent Positive Pressure Breathing (IPPB) Machine; Section ~~87705~~621, Colostomy/Ileostomy; Section ~~87709~~626, Contractures; or Section ~~87713~~631, Healing Wounds; licenses who have, or have had, any of the following within the last two years, shall obtain Department approval: (Continued)
- (4) A notice of deficiency concerning direct care and supervision of a resident with a health condition specified in Section ~~87701.1~~612, Restricted Health Conditions, that required correction within 24 hours. (Continued)
- (c) In addition to ~~s~~Section ~~87565~~411(d), facility staff shall have knowledge and the ability to recognize and respond to problems and shall contact the physician, appropriately skilled professional, and/or vendor as necessary.
- (d) In addition to Section ~~87587~~463, Reappraisals and Section ~~87591~~466, Observation of the Resident, the licensee shall monitor the ability of the resident to provide self care for the allowable health condition and document any change in that ability.
- (e) In addition to ~~s~~Sections ~~87575~~465(a) and ~~87590~~464(d), the licensee shall ensure that the resident is cared for in accordance with the physician's orders and that the resident's medical needs are met.
- (f) The duty established by this section does not infringe on the right of a resident to receive or reject medical care or services as allowed in ~~s~~Section ~~87572~~468(a)(16).

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

Renumber Section 87701.1 to Section 87612 and amend to read:

~~87701.1~~612 RESTRICTED HEALTH CONDITIONS

~~87701.1~~612

(a) (Continued)

- (1) Administration of oxygen as specified in Section ~~87703~~618.
- (2) Catheter care as specified in Section ~~87707~~623.
- (3) Colostomy/ileostomy care as specified in Section ~~87705~~621.
- (4) Contractures as specified in Section ~~87709~~626.
- (5) Diabetes as specified in Section ~~87710~~628.
- (6) Enemas, suppositories, and/or fecal impaction removal as specified in Section ~~87706~~622.
- (7) Incontinence of bowel and/or bladder as specified in Section ~~87708~~625.
- (8) Injections as specified in Section ~~87711~~629.
- (9) Intermittent Positive Pressure Breathing Machine use as specified in Section ~~87704~~619.
- (10) Stage 1 and 2 pressure sores (dermal ulcers) as specified in Section ~~87713~~631(a)(3).
- (11) Wound care as specified in Section ~~87713~~631.

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2, 1569.312, and 1569.72, Health and Safety Code.

Renumber Section 87701.2 to Section 87613 and amend to read:

~~87701.2~~613 GENERAL REQUIREMENTS FOR RESTRICTED ~~87701.2~~613
HEALTH CONDITIONS (Continued)

- (d) A resident's right to receive or reject medical care or services, as specified in Section ~~87572~~468, Personal Rights, shall not be affected by this section. (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2, 1569.312, and 1569.72, Health and Safety Code.

Renumber Section 87701 to Section 87615 and amend to read:

~~87701~~615 PROHIBITED HEALTH CONDITIONS

~~87701~~615

- (a) In addition to Section ~~87582455~~(c), persons who require health services or have a health condition including, but not limited to, those specified below shall not be admitted or retained in a residential care facility for the elderly: (Continued)
- (5) Residents who depend on others to perform all activities of daily living for them as set forth in Section ~~87584459~~, Functional Capabilities. (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2, 1569.312, and 1569.72, Health and Safety Code.

1

Renumber Section 87721 to Section 87616 and amend to read:

~~87721~~616 ~~INCIDENTAL MEDICAL RELATED SERVICES EXCEPTIONS~~
FOR HEALTH CONDITIONS

~~87721~~616

- (a) As specified in Section ~~87116~~209, Program Flexibility, the licensee may submit a written exception request if he/she agrees that the resident has a prohibited and/or restrictive health condition but believes that the intent of the law can be met through alternative means.
(Continued)

Authority cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1250, 1569.2(a), (e), and (j);, ~~1569.30(b); and~~ 1569.31 and 1569.312, Health and Safety Code.

Renumber Section 87722 to Section 87617 and amend to read:

87722617 DEPARTMENTAL REVIEW OF HEALTH CONDITIONS

87722617

- (a) Certain health conditions as specified in Sections 87703618, Oxygen Administration-Gas and Liquid, through 87715631, Healing Wounds, may require review by Department staff to determine if the resident will be allowed to remain in the facility. The Department shall inform the licensee that the health condition of the resident requires review and shall specify documentation which the licensee shall submit to the Department. (Continued)
- (b) If the Department determines that the resident has an allowable health condition, the licensee shall provide care and supervision to the resident in accordance with the conditions specified in Sections 87703618, Oxygen Administration-Gas and Liquid, through 87716631, Healing Wounds.

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1; 1569.2(a), (e), and (j); ~~1569.30(b);~~ and 1569.312; ,Health and Safety Code.

Renumber Section 87703 to Section 87618 and amend to read:

~~87703~~618 OXYGEN ADMINISTRATION - GAS AND LIQUID

~~87703~~618

- (a) Except as specified in Section ~~87702-1611~~(a), the licensee shall be permitted to accept or retain a resident who requires the use of oxygen gas administration under the following circumstances: (Continued)
- (b) In addition to Section ~~87702-1611~~(b), the licensee shall be responsible for the following: (Continued)
 - (4) Determining that room size can accommodate equipment in accordance with Section ~~87577~~307, Personal Accommodations and Services. (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

Renumber Section 87704 to Section 87619 and amend to read:

~~87704~~619 INTERMITTENT POSITIVE PRESSURE BREATHING
(IPPB) MACHINE

~~87704~~619

- (a) Except as specified in Section ~~87702-1611~~(a), the licensee shall be permitted to accept or retain a resident who requires the use of an IPPB machine under the following circumstances: (Continued)
- (b) In addition to Section ~~87702-1611~~(b), the licensee shall be responsible for the following: (Continued)
 - (4) Determining that room size can accommodate equipment in accordance with Section ~~87577307~~(a)(2)(A). (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

Renumber Section 87705 to Section 87621 and amend to read:

~~87705~~621 COLOSTOMY/ILEOSTOMY

~~87705~~621

- (a) Except as specified in Section ~~87702.1611~~(a), the licensee shall be permitted to accept or retain a resident who has a colostomy or ileostomy under the following circumstances:
(Continued)
- (b) In addition to Section ~~87702.1611~~(b), the licensees shall be responsible for the following:
(Continued)
 - (2) Ensuring that used bags are discarded as specified in Section ~~87691303~~(f)(1).
(Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

Renumber Section 87706 to Section 87622 and amend to read:

87706622 ~~ENEMA AND/OR SUPPOSITORY AND FECAL IMPACTION~~ 87706622
~~REMOVAL~~ FECAL IMPACTION REMOVAL, ENEMAS,
AND/OR SUPPOSITORIES (Continued)

(b) In addition to Section 87702-1611, General Requirements for Allowable Health Conditions, the licensee shall be responsible for the following: (Continued)

Authority cited: Section 1569.30(a), Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); ~~1569.30(b)~~; and 1569.312; Health and Safety Code.

Renumber Section 87707 to Section 87623 and amend to read:

~~87707~~623 INDWELLING URINARY CATHETER/~~CATHETER PROCEDURE~~ ~~87707~~623
(Continued)

(b) In addition to Section ~~87702-1611~~, General Requirements for Allowable Health Conditions, the licensee shall be responsible for the following: (Continued)

(3) Ensuring that waste materials shall be disposed of as specified in Section ~~87691303~~303(f)(1). (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

Renumber Section 87708 to Section 87625 and amend to read:

~~87708~~625 ~~MANAGED BOWEL AND BLADDER INCONTINENCE~~
(Continued)

~~87708~~625

- (b) In addition to Section ~~87702.1~~611, General Requirements for Allowable Health Conditions, the licensee shall be responsible for the following: (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2, 1569.31, and 1569.312, Health and Safety Code.

Renumber Section 87709 to Section 87626 and amend to read:

~~87709~~626 CONTRACTURES

~~87709~~626

(a) Except as specified in Section ~~87702-1611~~(a), the licensee shall be permitted to accept or retain a resident who has contractures under the following circumstances:

(1) If the contractures do not severely affect functional ability and the resident is able to care for the contractures by him/herself.

OR

(2) If the contractures do not severely affect functional ability and care and/or supervision is provided by an appropriately skilled professional.

(b) In addition to Section ~~87702-1611~~(b), the licensee shall be responsible for the following:
(Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

Renumber Section 87710 to Section 87628 and amend to read:

~~87710~~628 DIABETES (Continued)

~~87710~~628

- (b) In addition to Section ~~87702-1611~~, General Requirements for Allowable Health Conditions, the licensee shall be responsible for the following:
- (1) Assisting residents with self-administered medication as specified in Section ~~87575465~~, Incidental Medical and Dental Care Services.
 - (2) Ensuring that sufficient amounts of medicines, testing equipment, syringes, needles and other supplies are maintained and stored in the facility as specified in Section ~~87575465~~(c).
 - (3) Ensuring that syringes and needles are disposed of as specified in Section ~~87691303~~(f)(2).
 - (4) Providing modified diets as prescribed by a resident's physician as specified in Section ~~8757655~~(b)(7).

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

1
Renumber Section 87711 to Section 87629 and amend to read:

87711629 INJECTIONS (Continued)

87711629

- (b) In addition to Section ~~87702-1611~~, General Requirements for Allowable Health Conditions, the licensees who admit or retain residents who require injections shall be responsible for the following: (Continued)
- (2) Ensuring that sufficient amounts of medicines, test equipment, syringes, needles and other supplies are maintained in the facility and are stored as specified in Section ~~87575465~~(c).
 - (3) Ensuring that syringes and needles are disposed of as specified in Section ~~87691303~~(f)(2).

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

Renumber Section 87713 to Section 87631 and amend to read:

~~87713~~631 HEALING WOUNDS

~~87713~~631

- (a) Except as specified in Section ~~87702.1611~~(a), the licensee shall be permitted to accept or retain a resident who has a healing wound under the following circumstances: (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.2 and 1569.312, Health and Safety Code.

Renumber Section 87716.1 to Section 87632 and amend to read:

~~87716.1632~~ ~~FACILITY~~ HOSPICE CARE WAIVER

~~87716.1632~~

(a) (Continued)

- (2) A statement by the licensee that they have read, Section ~~87716633~~, Hospice Care for Terminally Ill Residents, this section, and all other requirements within Chapter 8 of Title 22 of the California Code of Regulations governing Residential Care Facilities for the Elderly and that they will comply with these requirements. (Continued)

(d) (Continued)

(1) (Continued)

- (A) The request shall be maintained in the resident's record at the facility, as specified in Section ~~87716633~~(h)(1). (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.10, 1569.11, 1569.15, ~~1569.30~~, 1569.31, 1569.312, 1569.54, and 1569.73, Health and Safety Code.

Renumber Section 87716 to Section 87633 and amend to read:

87716633 HOSPICE CARE FOR TERMINALLY ILL RESIDENTS
(Continued)

87716633

- (g) In addition to the reporting requirements specified in Section ~~87561211~~ Reporting Requirements, the licensee shall submit a report to the Department when a terminally ill resident's hospice services are interrupted or discontinued for any reason other than the death of the resident, including refusal of hospice care or discharge from hospice. The licensee shall also report any deviation from the resident's hospice care plan, or other incident, which threatens the health and safety of any resident. (Continued)
- (i) Prescription medications no longer needed shall be disposed of in accordance with Section ~~87575465~~(i).
- (j) Approval from the ~~d~~Department is not needed for any of the restricted health conditions listed in Section ~~87701-1612~~, Restricted Health Conditions, provided the resident is currently receiving hospice care, and the restricted health condition is addressed in the hospice care plan. (Continued)
- (l) Residents receiving hospice care who are bedridden as defined in Section ~~87582455~~(d), may reside in the facility provided the facility notifies the local fire authority of the estimated length of time the resident will be bedridden. Notification must occur within 48 hours of the individual's bedridden status. (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, ~~1569.30~~, 1569.31, 1569.312, 1569.54, and 1569.73, Health and Safety Code.

Renumber Section 87701.3 to Section 87637 and amend to read:

~~87701.3637~~

HEALTH CONDITION RELOCATION ORDER

~~87701.3637~~

- (a) If a resident has a health condition which cannot be cared for within the limits of the license, requires inpatient care in a health facility, or has a health condition prohibited by Section ~~87582455~~(c) or Section ~~87701615~~, Prohibited Health Conditions, the Department shall order the licensee to relocate the resident.
- (b) When the Department orders the relocation of a resident, the following shall apply:
 - (1) The Department shall give written notice to the licensee ordering the relocation of the resident and informing the licensee of the resident's right to an interdisciplinary team review of the relocation order as specified in Section ~~87701.5638~~, Resident Request for Review of Health Condition Relocation Order. Notice of the health condition relocation order and information about the right to request an interdisciplinary team review of the relocation order shall be given to the resident, by the Department, and sent to the resident's responsible person, if any. (Continued)
 - (6) The licensee shall comply with all terms and conditions of the approved plan. No written or oral contract with any other person shall release the licensee from the responsibility specified in this section or Section ~~87342.1223~~, Relocation of Residents, for relocating a resident who has a health condition(s) which cannot be cared for in the facility and/or which requires inpatient care in a licensed health facility, nor from taking all necessary actions to reduce stress to the resident. (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1250, 1569.1, 1569.2, 1569.31, 1569.312, 1569.54, and 1569.73, Health and Safety Code.

Renumber Section 87701.5 to Section 87638 and amend to read:

87701.5638

RESIDENT REQUEST FOR REVIEW OF HEALTH
CONDITION RELOCATION ORDER (Continued)

87701.5638

- (c) The licensee shall mail or deliver such a request to the Department within two (2) working days of receipt.
 - (1) Failure or refusal to do so may ~~be subject to~~ result in civil penalties, as provided in Section ~~87454761, Penalties.~~ (Continued)
- (e) Within ten (10) working days from the date of the resident's review request, the licensee shall submit to the Department the documentation specified in Section 87701.5638(g) to complete the resident's review request.
- (g) The documentation to complete the resident's review request shall include, but not be limited to, the following: (Continued)
 - (2) A current medical assessment signed by the resident's physician.
 - (A) For purposes of this section, this assessment shall include the information specified in Sections ~~87702.1611(a)(1)(A)~~ through (E). (Continued)
 - (3) An appraisal or reappraisal of the resident as specified in Sections ~~87583457(c)(1)~~ and ~~87587463, Reappraisals.~~ (Continued)
- (i) The resident's right to a review of a health condition relocation order issued by the Department shall not:
 - (1) Nullify a determination by the Department that the resident must be relocated in order to protect the resident's health and safety as specified in Section ~~87701.1637(a).~~
 - (2) Apply to eviction under Section ~~87589224, Eviction Procedures.~~ (Continued)
 - (4) Apply if the facility license has been temporarily suspended as specified in Section ~~87342775(c).~~

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections ~~1569.30 and~~ 1569.54, Health and Safety Code.

Renumber Section 87720 to Section 87639 and amend to read:

~~87720~~639 ADMINISTRATIVE REVIEW - ~~INCIDENTAL MEDICAL SERVICES~~ ~~87720~~639
HEALTH CONDITIONS

- (a) For purposes of this article, any request for administrative review of a notice of deficiency, notice of penalty, or health condition relocation order shall be submitted by the licensee or his/her designated representative in writing to the Department and, in addition to the requirements of Section ~~87455~~763, Appeal Process, shall include the following: (Continued)
- (2) Information about the resident as specified in Section ~~87702~~1611(a).
- (3) A current appraisal or reappraisal of the resident as specified in Sections ~~87583~~457(c)(1) and ~~87587~~463, Reappraisals. (Continued)

Authority cited: Sections 1569.30 and ~~1569.30(a)~~, Health and Safety Code.

Reference: Sections 1569.2(a), (e), and (j); ~~1569.30; 1569.30(b)~~; 1569.312; and 1569.54; Health and Safety Code.

Adopt Article 12. title to read:

Article 12. Dementia

Renumber Section 87724 to Section 87705 and amend to read:

8772405 CARE OF PERSONS WITH DEMENTIA (Continued)

8772405

- (b) In addition to the requirements as specified in Section 8722208, Plan of Operation, the plan of operation shall address the needs of residents with dementia, including: (Continued)
- (c) Licensees who accept and retain residents with dementia shall be responsible for ensuring the following: (Continued)
 - (2) The ~~disaster and mass casualty plan~~ Emergency Disaster Plan, as required in Section 8722312, addresses the safety of residents with dementia.
 - (3) In addition to the on-the-job training requirements in Section 87565411(d), staff who provide direct care to residents with dementia shall receive the following training as appropriate for the job assigned and as evidenced by safe and effective job performance: (Continued)
 - (4) There is an adequate number of direct care staff to support each resident's physical, social, emotional, safety and health care needs as identified in his/her current appraisal.
 - (A) In addition to requirements specified in Section 87581415, Night Supervision, a facility with fewer than 16 residents shall have at least one night staff person awake and on duty if any resident with dementia is determined through a pre-admission appraisal, reappraisal or observation to require awake night supervision.
 - (5) Each resident with dementia shall have an annual medical assessment as specified in Section 87569458, Medical Assessment, and a reappraisal done at least annually, both of which shall include a reassessment of the resident's dementia care needs. (Continued)
 - (6) Appraisals are conducted on an ongoing basis pursuant to Section 87587463, Reappraisals. (Continued)
- (d) In addition to requirements specified in Section 87691303, Maintenance and Operation, safety modifications shall include, but not be limited to, inaccessibility of ranges, heaters, wood stoves, inserts, and other heating devices to residents with dementia. (Continued)
- (g) As required by Section 87572468(a)(12), residents with dementia shall be allowed to keep personal grooming and hygiene items in their own possession, unless there is evidence to substantiate that the resident cannot safely manage the items. (Continued)

- (i) The licensee may use wrist bands or other egress alert devices worn by the resident, with the prior written approval of the resident or conservator, provided that such devices do not violate the resident's rights as specified in Section 87572468, Personal Rights. (Continued)
- (k) The following initial and continuing requirements must be met for the licensee to utilize delayed egress devices on exterior doors or perimeter fence gates: (Continued)
 - (4) Without violating Section 87572468, Personal Rights, facility staff shall attempt to redirect a resident who attempts to leave the facility. (Continued)
 - (6) Without violating Section 87572468, Personal Rights, facility staff shall ensure the continued safety of residents if they wander away from the facility. (Continued)
- (l) The following initial and continuing requirements shall be met for the licensee to lock exterior doors or perimeter fence gates: (Continued)
 - (3) The licensee shall obtain a waiver from Section 87572468(a)(6), to prevent residents from leaving the facility. (Continued)

Authority cited: Sections 1569.30 and 1569.698, Health and Safety Code.

Reference: Sections 1569.2, ~~1569.30~~, 1569.31, 1569.312, 1569.698, 1569.699, and 13131, Health and Safety Code.

Renumber Section 87725 to Section 87706 and amend to read:

8772506 ADVERTISING DEMENTIA SPECIAL CARE, PROGRAMMING, 8772506
AND/OR ENVIRONMENTS

- (a) In addition to the requirements in Section 8772405, Care of Persons with Dementia, licensees who advertise, promote, or otherwise hold themselves out as providing special care, programming, and/or environments for residents with dementia or related disorders shall meet the following requirements:
- (1) The licensee shall ensure that direct care staff who provide care to any resident(s) with dementia meet the training requirements in Section 87725.107, Training Requirements if Advertising Dementia Special Care, Programming, and Environments, including six hours of resident care orientation within the first four weeks of employment and eight hours of in-service training per year on the subject of serving residents with dementia. (Continued)
 - (2) In addition to the requirements specified in Sections 8722208(a) and 8772405(b), the licensee shall include in the plan of operation a brief narrative description of the following facility features: (Continued)
 - (C) Admission, including the following items that must be addressed when admitting a resident who requires dementia special care: (Continued)
 3. Procedures in place to ensure that the plan of operation is available for review upon request, as required by Section 8772506(a)(3). (Continued)
 - (G) Staff training. Describe the required training for direct care staff who provide dementia special care. At a minimum, the description shall include information on the time frame for training, as specified in Section 87725.107(a)(2), and the training topics, as specified in Section 87725.107(a)(2)(A). (Continued)
 - (3) The admission agreement, as specified in Section 8756807(e), shall inform the resident and the resident's responsible person, if any, or the conservator, that the facility features, as specified in Section 8772506(a)(2), are described in the facility's plan of operation and that the plan of operation is available for review upon request.
 - (4) (Continued)
 - (B) This material shall also be available to the licensing agency to inspect, audit, copy, and remove (if necessary for copying) upon demand during normal business hours as specified in Section 87344755(c).

(b) (Continued)

(1) (Continued)

- (A) The notification shall specify the date that the licensee will cease advertising or promoting dementia special care, programming, and/or environments; and, therefore, shall no longer be required to meet the requirements specified in Section ~~8772506~~(a) and the training requirements in Section ~~87725.107~~, Training Requirements if Advertising Dementia Special Care, Programming, and Environments. (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.15, 1569.22, 1569.31, 1569.312, 1569.33, 1569.355, 1569.62, 1569.625, 1569.626, and 1569.627, Health and Safety Code.

Renumber Section 87725.1 to Section 87707 and amend to read:

~~87725.107~~ TRAINING REQUIREMENTS IF ADVERTISING DEMENTIA ~~87725.107~~
SPECIAL CARE, PROGRAMMING, AND/OR ENVIRONMENTS

(a) Licensees who advertise, promote, or otherwise hold themselves out as providing special care, programming, and/or environments for residents with dementia or related disorders shall ensure that all direct care staff, described in Section ~~87725.06~~(a)(1), who provide care to residents with dementia, meet the following training requirements:

(1) Direct care staff shall complete six hours of orientation specific to the care of residents with dementia within the first four weeks of working in the facility.
(Continued)

(C) Various methods of instruction may be used, including, but not limited to, presenters knowledgeable about dementia; video instruction tapes; interactive material; books; and/or other materials approved by organizations or individuals specializing in dementia as specified in Section ~~87725.107~~(a)(2)(C).

1. Instruction may include up to two hours of mentoring and hands-on training from direct care staff who have completed six hours of orientation specific to the care of residents with dementia and eight hours of in-service training on the subject of serving residents with dementia as specified in Sections ~~87725.107~~(a)(1) and (2).
(Continued)

(2) (Continued)

(C) The training shall be developed by, or in consultation with, an individual(s) or organization(s) with expertise in dementia care and with knowledge on the training topic areas specified in Section ~~87725.107~~(a)(2)(A).

1. (Continued)

a. If the consultant and trainer are the same person(s), the documentation requirements specified in Sections ~~87725.107~~(a)(2)(D) and (F) shall both be met.

(D) The licensee shall maintain the following documentation for the consultant(s) described in Section ~~87725.107~~(a)(2)(C): (Continued)

3. Organization affiliation (if any), as specified in Section ~~87725.107~~(a)(2)(C), and/or educational and professional qualifications specific to dementia; and

4. The training topics, specified in Section ~~87725.107~~(a)(2)(A), for which consultation was provided.
- (E) All trainers shall meet the following education and experience requirements: (Continued)
2. One of the following experience requirements:
 - a. Current employment as a consultant with expertise in dementia care, as specified in Section ~~87725.107~~(a)(2)(C). (Continued)
- (F) The licensee shall maintain the following documentation on the trainer(s) described in Section ~~87725.107~~(a)(2)(E): (Continued)
4. Notation that indicates which of the criteria for experience the trainer meets, as specified in Section ~~87725.107~~(a)(2)(E)2., and maintain verification of qualifying criteria; and
 5. Proof of completion of the educational requirements, as specified in Section ~~87725.107~~(a)(2)(E)1., which may include the following: (Continued)
- (G) The documentation required in Sections ~~87725.107~~(a)(2)(D) and (F) shall be retained for at least three years following the date consultation services/training were provided.
1. This documentation shall be available to the licensing agency to inspect, audit, copy, and remove (if necessary for copying) upon demand during normal business hours as specified in Section ~~87344755~~(c).
- (H) The licensee shall maintain in the personnel records documentation on the in-service training required in Section ~~87725.107~~(a)(2) for direct care staff and include the training topic(s) covered, as required in Section ~~87725.107~~(a)(2)(A).

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.31, 1569.33, 1569.62, 1569.625, and 1569.626, Health and Safety Code.

Repeal Section 87725.2:

87725.2 ADVERTISING DEMENTIA SPECIAL CARE, PROGRAMMING, 87725.2
AND/OR ENVIRONMENTS AS OF JULY 3, 2004

- (a) ~~Licensees who will no longer advertise, promote, or otherwise hold themselves out as providing dementia special care, programming, and/or environments shall meet all of the requirements of Section 87725(b) no later than October 31, 2004.~~
- (b) ~~Licensees who continue to advertise, promote, or otherwise hold themselves out as providing dementia special care, programming, and/or environments shall comply with the requirements in Sections 87725(a) and 87725.1 as of July 3, 2004, with the following exceptions:~~
 - (1) ~~No later than October 31, 2004, the licensee shall:~~
 - (A) ~~Submit to the licensing agency the additional requirements for the plan of operation that have not been submitted previously, as described in Section 87725(a)(2).~~
 - (B) ~~Amend the admission agreement to inform the resident and the responsible person, if any, or the conservator, that the facility features, as specified in Section 87725(a)(2), are described in the plan of operation and are available for review upon request. Requirements in Sections 87568(e) and (f) shall also be met.~~

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.31, 1569.33, 1569.62, 1569.625, 1569.626, and 1569.627, Health and Safety Code.

Adopt Article 13. title to read:

Article 13. Enforcement

Renumber Section 87344 to Section 87755 and amend to read:

87344755 INSPECTION AUTHORITY OF THE LICENSING AGENCY
(Continued)

87344755

- (c) The licensing agency shall have the authority to inspect, audit, and copy resident or facility records upon demand during normal business hours. Records may be removed if necessary for copying. Removal of records shall be subject to the requirements in Sections 87566412(f), 8757006(d), and 8757108(b). (Continued)

- (d) (Continued)

HANDBOOK BEGINS HERE

- (1) Health and Safety Code Ssection 1569.24 provides in part:

Within 90 days of ... after a facility accepts its first resident for placement following its initial licensure, the department shall inspect the facility to evaluate compliance with rules and regulations and to assess the facility's continuing ability to meet regulatory requirements. The licensee shall notify the department, within five business days after accepting its first resident for placement, that the facility has commenced operating.

- (2) Health and Safety Code Ssection 1569.32 provides ~~in part~~: (Continued)

- (3) Health and Safety Code Ssection 1569.33 provides in part: (Continued)

"(b) (Continued)

"(1) (Continued)

"(2) (Continued)

"(3) (Continued)

"(4) (Continued)

"(5) (Continued)

- "(c) The department shall conduct ~~random~~ annual unannounced visits to no less than 120 percent of facilities not subject to an evaluation under subdivision (b)...

...

"(d) (Continued)

(4) Health and Safety Code ~~S~~section 1569.35(c) provides in part:

"(c) Upon receipt of a complaint, ...the department shall make a preliminary review and ...an onsite inspection within 10 days after receiving the complaint except where the visit would adversely affect the licensing investigation or the investigation of other agencies, including, but not limited to, law enforcement agencies..."

HANDBOOK ENDS HERE

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.24, 1569.33, 1569.34, and 1569.35, Health and Safety Code.

Renumber Section 87345 to Section 87756; Section 87452(a) to Section 87756(c); Section 87452(b) et seq. to Section 87756(d) et seq.; Section 87452(c) et seq. to Section 87756(e) et seq., and amend to read:

87345756 EVALUATION VISIT

87345756

(a) (Continued)

HANDBOOK BEGINS HERE

(1) Health and Safety Code Section 1569.33 provides in part:

"(a) (Continued)

"(b) The department shall conduct an annual unannounced visit of a facility under any of the following circumstances:

"(1) (Continued)

"(2) (Continued)

"(3) (Continued)

"(4) (Continued)

"(5) (Continued)

"(c) The department shall conduct ~~{random}~~ annual unannounced visits to no less than ~~4~~20 percent of facilities not subject to an evaluation under subdivision (b)...

"(d) (Continued)

HANDBOOK ENDS HERE

(b) (Continued)

87452(a)

(c) When a routine visit, evaluation or investigation of a complaint is conducted and the evaluator determines that a deficiency exists, the evaluator shall issue a notice of deficiency, unless the deficiency is minor and corrected during the visit.

87452(b)

(d) Prior to completion of a visit, evaluation or investigation, the evaluator shall meet with the licensee, administrator, operator, or other person in charge of the facility to discuss any deficiencies noted. At the meeting, a plan for correcting each deficiency shall be developed and included in the notice of deficiency. Prior to completion of the visit, the evaluator shall serve the notice of deficiency on the licensee by either:

- (1) Personal delivery to the licensee, or
- (2) If the licensee is not at the facility site, leaving the notice with the person in charge of the facility and also mailing a copy to the licensee.
- (3) If the licensee or the person in charge of the facility refuses to accept the notice, a notation of the refusal shall be written on the notice and a copy left at the facility.
 - (A) Under such circumstances, a copy of the notice shall also be mailed to the licensee.

87452(e)

(e) The notice of deficiency shall be in writing and shall include:

- (1) A reference to the statute or regulation upon which the deficiency is premised.
- (2) A factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with specified statute or regulation, and the particular place or area of the facility in which is occurred.
- (3) The plan developed, as specified in (d) above, for correcting each deficiency.
- (4) A date by which each deficiency shall be corrected.
 - (A) In prescribing the date for correcting a deficiency, the evaluator shall consider the following factors:
 1. The seriousness of the deficiency.
 2. The number of residents affected.
 3. The availability of equipment or personnel necessary to correct the deficiency.
 4. The estimated time necessary for delivery and any installation of necessary equipment.

- 1
- (B) The evaluator shall require correction of the deficiency within 24 hours and shall specify on the notice the date by which the correction must be made whenever penalties are assessed pursuant to Sections 87761(c), (d) and (e).
 - (C) The date for correcting a deficiency shall not be more than 30 calendar days following service of the notice of deficiency, unless the evaluator determines that the deficiency cannot be completely corrected in 30 calendar days. If the date for correcting the deficiency is more than 30 days following service of the notice of deficiency the notice shall specify action which must be taken within 30 calendar days to begin correction.
 - (5) The amount of penalty which shall be assessed and the date the penalty shall begin if the deficiency is not corrected by the specific due date.
 - (6) The address and telephone number of the licensing office responsible for reviewing notices of deficiencies for the area in which the facility is located.

Authority cited: Sections 1569.30 and 1569.49, Health and Safety Code.

Reference: Sections 1569.11, 1569.24, 1569.31, 1569.315, 1569.32, 1569.33, 1569.335, 1569.34, and 1569.35, and 1569.485, Health and Safety Code.

1
Renumber Section 87343 to Section 87757 and amend to read:

87343757 LICENSEE COMPLAINTS (Continued)

87343757

- (b) Where applicable, a review of the complaint shall be conducted in accordance with Section 87455763, Appeal Process.

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections ~~1569.30~~ and 1569.335, Health and Safety Code.

1

Renumber Section 87451 to Section 87758 and amend to read:

~~87451~~758 SERIOUS DEFICIENCIES - EXAMPLES

~~87451~~758

- (a) Regulations including, but not limited to, the following may result in serious deficiencies when a failure to comply presents an immediate or substantial threat to the physical health, mental health, or safety of the residents:
- (1) Section ~~87219~~355 relating to criminal record clearance.
 - (2) Section ~~87220~~202 relating to fire clearance.
 - (3) Section ~~87110~~204 relating to limitations on the number or types of facility residents.
 - (4) Section ~~87573~~311 relating to telephone service.
 - (5) Sections ~~87582~~455(c)(1) or (2), or (4), or Section ~~87701~~615 relating to persons with communicable diseases, persons requiring inpatient health care, persons who are bedridden, or persons with a prohibited health condition.
 - (6) Section ~~87110~~204(b) relating to nonambulatory residents.
 - (7) Section ~~87572~~468(a)(3) relating to resident rights.
 - (8) Section ~~87578~~608(a) relating to restraints.
 - (9) Sections ~~87577~~307(d)(3) through (7) or (e) relating to safety of resident accommodations.
 - (10) Sections ~~87576~~555(b)(24), (25), or (27) relating to storage, preparation and service of food.
 - (11) Section ~~87575~~465(b)(3) relating to medical and dental care of residents.
 - (12) Section ~~87575~~465(c) relating to storing and dispensing medications.
 - (13) Section ~~87691~~303(e)(2) relating to hot water temperature.
 - (14) Sections ~~87691~~303 (e)(4), (5), or (6) relating to toilet, handwashing and bathing accommodations.
 - (15) Sections ~~87691~~303 (f)(1) or (2) relating to storage and disposal of solid wastes, syringes and needles.
 - (16) Section ~~87581~~415 relating to night supervision.

- 1
- (17) Section ~~87701.5638~~ relating to licensees forwarding to the Department a resident's request for review by an interdisciplinary team of a health condition relocation order.

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1, 1569.2, ~~1569.30~~, 1569.31, 1569.312, 1569.315, 1569.335, 1569.485, 1569.49; and 1569.54, Health and Safety Code.

Renumber Section 87453 to Section 87759 and amend to read:

~~87453~~759 FOLLOW-UP VISITS TO DETERMINE COMPLIANCE
(Continued)

~~87453~~759

- (d) When an immediate penalty has been assessed pursuant to Sections ~~87454~~761(c), (d), (e) and (f) and correction is made when the evaluator is present, a follow-up visit is not required.

Authority cited: Sections 1569.30 and 1569.49, Health and Safety Code.

Reference: Sections 1569.33, 1569.335, 1569.35, 1569.485, and 1569.49, Health and Safety Code.

Renumber Section 87454 to Section 87761 and amend to read:

87454761 PENALTIES (Continued)

87454761

- (b) Notwithstanding Section 87454761(a) above, an immediate penalty of \$100 per cited violation per day for a maximum of five (5) days shall be assessed if any individual required to be fingerprinted under Health and Safety Code Section 1569.17(b) has not obtained a California clearance or a criminal record exemption, requested a transfer of a criminal record clearance or requested and be approved for a transfer of an exemption as specified in Section 87219355(e) prior to working, residing or volunteering in the facility. (Continued)
- (3) Progressive civil penalties specified in Sections 87454761(d) and (e) shall not apply.
- (c) Notwithstanding Section 87454761(a) above, an immediate penalty of \$150 per day shall be assessed for any of the following: (Continued)
- (e) When a facility that was cited for a deficiency subject to the immediate penalty assessment specified in ~~s~~Section 87454761(d) above violates the same regulation subsection within a 12-month period of the last violation the facility shall be cited and an immediate penalty of \$1,000 per cited violation shall be assessed for one day only. Thereafter, a penalty of \$100 per day, per cited violation, shall be assessed until the deficiency is corrected.
- (1) For purposes of Sections 87454761(d) and (e) above, a regulation subsection is the regulation denoted by a lower-case letter after the main regulation number.

HANDBOOK BEGINS HERE

An example of the same regulation subsection are Sections 87218155(a)(2) and 87218155(a)(5). Sections 87218155(a) and 87218155(b) are not the same regulation subsection.

HANDBOOK ENDS HERE

- (f) (Continued)

Authority cited: Sections 1569.30 and 1569.49(a), Health and Safety Code.

Reference: Sections 1569.17, 1569.33, 1569.335, 1569.35, 1569.485; and 1569.49, Health and Safety Code.

Renumber Section 87455 to Section 87763 and amend to read:

~~87455~~763 ~~ADMINISTRATIVE REVIEW—GENERAL APPEAL PROCESS~~

~~87455~~763

(a) (Continued)

- (1) Additional review requirements pertaining to Incidental Medical Services are specified in Section ~~87720~~639, Administrative Review – Health Conditions.
(Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections ~~1569.30~~, 1569.33, 1569.335, 1569.35, 1569.485, 1569.49, and 1569.54, Health and Safety Code.

1
Renumber Section 87455.1 to Section 87766:

~~87455.1~~766

DENIAL OR REVOCATION OF LICENSE FOR
FAILURE TO PAY CIVIL PENALTIES (Continued)

~~87455.1~~766

Authority cited: Sections 1569.30 and 1569.49, Health and Safety Code.

Reference: Sections 1569.17, 1569.33, 1569.335, 1569.35, 1569.485, 1569.49, and
1569.51, Health and Safety Code.

Renumber Section 87457 to Section 87768 and amend to read:

~~87457~~768 UNLICENSED FACILITY PENALTIES

~~87457~~768

(a) (Continued)

(1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of the Notice of Operation in Violation of Law pursuant to ~~s~~Section 870106.

(A) For purposes of this section, an application shall be deemed completed if it includes the information required in ~~s~~Section 87218155, Application for License. (Continued)

(b) (Continued)

(1) (Continued)

(A) The \$200 per day per resident penalty shall continue until the operator ceases operation, or submits a completed application pursuant to ~~s~~Sections 87457768(a)(1)(A) and (B). (Continued)

HANDBOOK BEGINS HERE

(f) (Continued)

~~(1) Section 1569.10 of the Health and Safety Code~~ section 1569.10 provides ~~in part~~:

"No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct, or maintain a residential facility for the elderly in this state, without ~~first obtaining and maintaining~~ a current valid license or current valid special permit therefor, as provided in this Chapter."

HANDBOOK ENDS HERE

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.3, 1569.10, 1569.11, 1569.14, 1569.145, 1569.15, 1569.19, 1569.20, 1569.21, 1569.22, 1569.312, 1569.35, 1569.44, 1569.45, 1569.485, and 1569.495, Health and Safety Code.

Renumber Section 87458 to Section 87769:

~~87458~~769 UNLICENSED FACILITY ADMINISTRATIVE APPEAL
(Continued)

~~87458~~769

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.10, 1569.44, 1569.45, and 1569.485, Health and Safety Code.

Adopt Article 14. title to read:

Article 14. Administrative Actions - General

Renumber Section 87342 to Section 87775:

87342775 REVOCATION OR SUSPENSION OF LICENSE

87342775

(a) (Continued)

HANDBOOK BEGINS HERE

(1) (Continued)

(2) Health and Safety Code Section 1569.50 reads in part: (Continued)

"(a) Violation by the licensee of this chapter, or of the rules and regulations adopted under this chapter.

"(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations adopted under this chapter.

"(c) (Continued)

"(e) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients."

..."

HANDBOOK ENDS HERE

(b) (Continued)

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.1515(e), 1569.50, 1569.51, 1569.52, and 1569.53, Health and Safety Code.

Renumber Section 87346 to Section 87777:

87346777 EXCLUSIONS

87346777

(a) (Continued)

HANDBOOK BEGINS HERE

(1) Health and Safety Code Ssection 1569.58 reads in part:

"(a) (Continued)

"(1) (Continued)

"(2) (Continued)

"(3) (Continued)

"(4) (Continued)

"(5) (Continued)

"(b) (Continued)

"(c) (1) (Continued)

"(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility the department shall serve an order of immediate exclusion upon the excluded person ~~which~~ that shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

"(3) (Continued)

"(A) (Continued)

"(B) (Continued)

"(4) (Continued)

"(d) (Continued)

"(e) (Continued)

"(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section, ~~or~~ The Department may enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee, or prohibiting the excluded person's employment or presence in the facility, or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded person, or any discharge, failure to hire, or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

"(g) (Continued)

"(h) (1) (A) (Continued)

"(B) (Continued)

"(2) (A) (Continued)

"(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order."

(2) (Continued)

"(2) (Continued)

"(b) (Continued)

"(1) (Continued)

"(2) (Continued)

"(c) (Continued)

"(1) (Continued)

"(2) (Continued)

"(d) (Continued)

"(e) (Continued)

HANDBOOK ENDS HERE

Authority cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.58 and 1569.59, Health and Safety Code.

Renumber Article 9. to Article 15. and amend title to read:

Article 915. Administrator Certification Training Programs - Vendor Information

Renumber Section 87730 to Section 87785 and amend to read:

8773085 INITIAL CERTIFICATION TRAINING PROGRAM
APPROVAL REQUIREMENTS (Continued)

8773085

(b) (Continued)

(4) Qualifications of each proposed instructor as specified in Section 8773085(i)(6). (Continued)

(6) Types of records to be maintained, as required by Section 8773085(i)(4). (Continued)

(9) A statement of whether or not the vendor applicant was the subject of any administrative, legal or other action involving licensure, certification or other approvals as specified in Sections 8773085(b)(7) and (8). (Continued)

(d) A written request for renewal of the Initial Certification Training Program shall be submitted to the Department using the forms LIC 9140 and LIC 9141, or a replica, and shall contain the information and processing fee specified in Section 8773085(b). (Continued)

(h) The Initial Certification Training Program shall consist of the following components:

(1) A minimum of forty (40) classroom hours with the following core of knowledge curriculum. (Continued)

(I) (Continued)

HANDBOOK BEGINS HERE

(J) Topics within the basic curriculum may include, but not be limited to, topics as specified in the Department's Core of Knowledge Guideline for each of the nine (9) Core of Knowledge components specified in Sections 8773085(h)(1)(A) through (I). The guideline is available from the Department upon request. (Continued)

HANDBOOK ENDS HERE

(2) A standardized test administered by the Department. (Continued)

(B) The test questions shall reflect the hour value of the nine (9) Core of Knowledge areas specified in Sections 8773085(h)(1)(A) through (I). (Continued)

(i) Initial Certification Training Program vendors shall: (Continued)

(4) (Continued)

- (B) List of instructors and documentation of qualifications of each, as specified in Section ~~8773085~~(i)(6). (Continued)
- (7) A minimum of ten (10) hours of instruction must be provided by an instructor(s) who meet(s) the criteria specified in Section ~~8773085~~(i)(6)(D).
 - (A) Where good faith efforts to employ an instructor who meets the criteria specified in Section ~~8773085~~(i)(6)(D) are unsuccessful, vendors may apply to the administrator certification section for a waiver of this requirement. (Continued)

Authority cited: Sections 1569.23(d), 1569.30, and 1569.616(j), Health and Safety Code.

Reference: Sections ~~1569.616~~ and 1569.23 and 1569.616, Health and Safety Code.

Renumber Section 87730.1 to Section 87786:

~~87730.186~~

DENIAL OF REQUEST FOR APPROVAL OF AN
INITIAL CERTIFICATION TRAINING PROGRAM
(Continued)

~~87730.186~~

(c) (Continued)

HANDBOOK BEGINS HERE

Health and Safety Code ~~S~~section 1569.16(b) provides:

"(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall, except as provided in Section 1569.22, cease further review of the application until one year has elapsed from the date of the denial letter. In those circumstances where denials are appealed and upheld at an administrative hearing, review of the application shall cease for one year from the date of the decision and order being rendered by the department. The cessation of review shall not constitute a denial of the application."

HANDBOOK ENDS HERE

Authority cited: Sections 1569.23(d), 1569.30, and 1569.616(j), Health and Safety Code.

Reference: Sections 1569.16, 1569.23, and 1569.616, Health and Safety Code.

Renumber Section 87730.2 to Section 87787 and amend to read:

~~87730.287~~ REVOCATION OF AN INITIAL CERTIFICATION
 TRAINING PROGRAM

~~87730.287~~

- (a) The Department may revoke an Initial Certification Training Program approval and remove the vendor from the list of approved vendors if the vendor does not provide training consistent with Section ~~87730.85~~, Initial Certification Training Program Approval Requirements, or (Continued)

Authority cited: Sections 1569.23(d), 1569.30, and 1569.616(j), Health and Safety Code.

Reference: Sections 1569.16, 1569.51, and 1569.616, Health and Safety Code.

Renumber Section 87731 to Section 87788 and amend to read:

~~87731~~88 CONTINUING EDUCATION TRAINING PROGRAM
VENDOR REQUIREMENTS (Continued)

~~87731~~88

(b) (Continued)

(4) A statement of whether or not the vendor applicant was the subject of any administrative, legal or other action involving licensure, certification or other approvals as specified in Sections ~~87731~~88(b)(2) and (3). (Continued)

(d) A written request for renewal of the Continuing Education Training Program shall be submitted to the Department using the forms LIC 9140 and LIC 9141, or a replica, and shall contain the information and processing fee specified in Section ~~87731~~88(b). (Continued)

(h) Continuing Education Training Program vendors shall:

(1) (Continued)

(B) List of instructors and documentation of qualifications of each as specified in Section ~~87731~~88(h)(2). (Continued)

Authority cited: Sections 1569.23(d), 1569.30, and 1569.616(j), Health and Safety Code.

Reference: Section 1569.616, Health and Safety Code.

Renumber Section 87731.1 to Section 87789 and amend to read:

~~87731.189~~ CONTINUING EDUCATION TRAINING PROGRAM
COURSE APPROVAL REQUIREMENTS (Continued)

~~87731.189~~

(b) (Continued)

(3) Qualifications of each proposed instructor, as specified in Section ~~87731.188~~(h)(2).

(4) Types of records to be maintained, as required in Section ~~87731.188~~(h)(1). (Continued)

(7) A statement of whether or not the proposed instructor was the subject of any administrative, legal or other action involving licensure, certification or other approvals as specified in Sections ~~87731.189~~(b)(5) and (6).

(c) Course approval shall expire on the expiration date of the vendor's Continuing Education Training Program vendorship approval, as provided in Section ~~87731.188~~(c). (Continued)

(g) Any changes to previously approved courses must be submitted to the Department for approval prior to being offered, which shall contain the information specified in Section ~~87731.189~~(b). (Continued)

Authority cited: Sections 1569.23(d), 1569.30, and 1569.616(j), Health and Safety Code.

Reference: Section 1569.616, Health and Safety Code.

Renumber Section 87731.2 to Section 87791:

87731.2 <u>91</u>	ADMINISTRATIVE REVIEW OF DENIAL OR REVOCATION OF A REQUEST FOR A APPROVAL OF A CONTINUING EDUCATION COURSE (Continued)	87731.2 <u>91</u>
------------------------------	--	------------------------------

Authority cited: Sections 1569.23(d), 1569.30, and 1569.616(j), Health and Safety Code.

Reference: Section 1569.616, Health and Safety Code.

Renumber Section 87731.3 to Section 87792:

87731.3 <u>92</u>	DENIAL OF A REQUEST FOR A APPROVAL OF A CONTINUING EDUCATION TRAINING PROGRAM (Continued)	87731.3 <u>92</u>
------------------------------	---	------------------------------

Authority cited: Sections 1569.23(d), 1569.30, and 1569.616(j), Health and Safety Code.

Reference: Sections 1569.16, 1569.51, and 1569.616, Health and Safety Code.

Renumber Section 87731.4 to Section 87793 and amend to read:

~~87731.493~~ REVOCATION OF A CONTINUING EDUCATION
TRAINING PROGRAM

~~87731.493~~

- (a) The Department may revoke a Continuing Education Training Program approval and remove the vendor from the list of approved vendors if the vendor does not provide training consistent with Sections ~~87731.88~~, Continuing Education Training Program Vendor Requirements, and ~~87731.189~~, Continuing Education Training Program Course Approval Requirements. (Continued)

Authority cited: Sections 1569.23(d), 1569.30, and 1569.616(j), Health and Safety Code.

Reference: Sections 1569.16, 1569.23, 1569.51; and 1569.616, Health and Safety Code.

OFFICE OF ADMINISTRATIVE LAW

300 Capitol Mall, Suite 1250
Sacramento, CA 95814
(916) 323-6225 FAX (916) 323-6826

SUSAN LAPSLEY
Director

FILED

In the office of the Secretary of State
of the State of California

**MAR 12 2008**

At 3:25 O'Clock P M.
DEBRA BOWEN, Secretary of State
By [Signature]
Deputy Secretary of State

TO: Secretary of State

FROM: Richard L. Smith, Staff Counsel

RE: OAL File No. 08-0118-02 NR; Department of Social Services Form 400 error

DATE: March 12, 2008

OAL File No. 08-0118-02 NR
Department of Social Services
Date filed with the Secretary of State: March 5, 2008

The Form 400 and list of amended sections attached to it contained several errors that require correction. The corrected sections will show the following:

- Sections 87714 and 87715 were not part of this action and should not have appeared on the Form 400 in the "repeal" box.
- Section 87725.2, which was included on the list amended sections attached to the Form 400, was part of this action but should have been shown on the Form 400 in the "repeal" box.

Please stamp the six Form 400s submitted for this corrective filing in the area under the March 5, 2008 stamp (under "Amended Filing"), and retain this memo and one copy of the Form 400 and attached list with your copy of the above-entitled regulations. Thank you.

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

is on

For use by Secretary of State only

STD. 400 (REV. 4-89)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER 2008-6118-02NR	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Department of Social Services			

2008 JAN 18 PM 2:26

OFFICE OF
ADMINISTRATIVE LAW

2008 MAR -5 PM 4:47

JAMES BOWEN
SECRETARY OF STATEAmended Filing**A. PUBLICATION OF NOTICE** (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	
OAL USE ONLY ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		TELEPHONE NUMBER ()	
ACTION ON PROPOSED NOTICE		NOTICE REGISTER NUMBER	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Residential Care Facilities for the Elderly Section 100		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 07-0821-04N	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics-related)			
SECTION(S) AFFECTED (List all section number(s) individually)		ADOPT	
		AMEND see attached	
TITLE(S) CCR/MPP		REPEAL 87714.2 RS 3-12-08 87725.2 RS 3-12-08	
3. TYPE OF FILING			
☐ Regular Rulemaking (Gov. Code, § 11346) ☒ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code, §§ 11349.3, 11349.4) ☐ Emergency (Gov. Code, § 11346.1(b)) ☐ Emergency Readopt (Gov. Code, § 11346.1(h)) ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, § 11346.1)			
☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Government Code §§ 11346.2 - 11346.9 prior to, or within 120 days of, the effective date of the regulations listed above.			
☐ Print Only ☒ Changes Without Regulatory Effect (Cal. Code Regs., title 1, § 100) ☐ Other (specify) _____			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §§ 44 and 45) N/A			
5. EFFECTIVE DATE OF REGULATORY CHANGES (Gov. Code, §§ 11343.4, 11346.1(d))			
☐ Effective 30th day after filing with Secretary of State ☒ Effective on filing with Secretary of State ☐ Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
☐ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal			
☐ Other (Specify) _____			
7. CONTACT PERSON Sandra Ortega, Manager		TELEPHONE NUMBER (916) 657-2586	FAX NUMBER (Optional) ()
		E-MAIL ADDRESS (Optional)	

8.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

TYPED NAME AND TITLE OF SIGNATORY

JOHN A. WAGNER, DIRECTOR

DATE

1/15/08

Amended: 87101, 87102, 87106, 87107, 87110, 87111, 87112, 87113, 87114, 87115,
87116, 87117, 87118, 87218, 87219, 87219.1, 87220, 87222, 87223, 87224, 87225,
87226, 87227, 87227.1, 87228, 87229, 87230, 87231, 87235, 87236, 87340, 87342,
87342.1, 87343, 87344, 87345, 87346, 87451, 87452, 87453, 87454, 87455, 87455.1,
87457, 87458, 87560, 87561, 87562, 87564, 87564.2, 87564.3, 87564.4, 87564.5,
87565, 87566, 87567, 87568, 87569, 87570, 87571, 87572, 87573, 87574, 87575,
87575.1, 87575.2, 87576, 87577, 87578, 87579, 87580, 87581, 87582, 87583, 87583.1,
87584, 87585, 87586, 87587, 87588, 87589, 87590, 87591, 87592, 87593, 87686,
87689, 87690, 87691, 87692, 87700, 87701, 87701.1, 87701.2, 87701.3, 87701.5,
87702, 87702.1, 87703, 87704, 87705, 87706, 87707, 87708, 87709, 87710, 87711,
87713, 87716, 87716.1, 87720, 87721, 87722, 87724, 87725, 87725.1, ~~87725.2~~, 87730,
87730.1, 87730.2, 87731, 87731.1, 87731.2, 87731.3, 87731.4

RS 3-12-08

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-08)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-07-0417-02	REGULATORY ACTION NUMBER 2008-0425-02 S	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Department of Social Services			

FILED

In the office of the Secretary of State of the State of California

JUN 04 2008
JUN 03 2008 EMCAt 1:25 O'Clock P M.
DEBRA BOWEN, Secretary of State
By Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER 07-17-2	PUBLICATION DATE 4-27-2007

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Expedited Service Benefit Issuance for the Food Stamp Program		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT	
AMEND		63-301	
TITLE(S) MPP		REPEAL	
3. TYPE OF FILING			
☒ Regular Rulemaking (Gov. Code §11346) ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. ☐ Emergency Readopt (Gov. Code, §11346.1(h)) ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4) ☐ File & Print ☐ Print Only ☐ Emergency (Gov. Code, §11346.1(b)) ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) ☐ Other (Specify) _____			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1) N/A			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
☐ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ \$100 Changes Without Regulatory Effect ☒ Effective other (Specify) 9-1-08			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
☐ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal			
Other (Specify) _____			
7. CONTACT PERSON Sandra Ortega, Manager		TELEPHONE NUMBER 916-657-2586	FAX NUMBER (Optional) E-MAIL ADDRESS (Optional)

8.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

JOHN A. WAGNER, Director

4/18/08

Amend Section 63-301 to read:

63-301 APPLICATION PROCESSING TIME STANDARDS (Continued)

63-301

.5 Expedited Service (Continued)

.54 Special Procedures for Expediting Service (Continued)

- .546 ~~When households which apply for benefits after the 15th of the month provide the required postponed verification, the CWD shall issue the second month's benefits within five working days from receipt of the verification or the first day of the second calendar month, whichever is later. In CWDs that have staggered issuance, this shall be the first working day of the second calendar month, not the day benefits are issued using staggered issuance. This first working day of the calendar month issuance provision shall also apply to issuance in the third month for those migrant farmworker households needing out of state verification as outlined in Section 63-301.543(c). Households which apply for benefits after the 15th of the month and have been determined eligible to receive benefits for the initial month and the subsequent month but have had their verification postponed shall receive both allotments at the same time, in accordance with Section 63-503.16.~~

HANDBOOK BEGINS HERE

- (a) When a household has provided the required postponed verification, the CWD shall issue the third month's benefits within five working days from receipt of the verification or by the first day of the third month, whichever is later. For staggered issuance this shall be the first working day of the third month. If verification is not provided before the end of the third month, the CWD shall terminate the household's participation and shall issue no further benefits. This shall also apply to migrant farmworker households needing out-of-state verification as outlined in Section 63-301.545(a)(1).

HANDBOOK ENDS HERE

.547 (Continued)

Authority Cited: Sections 10554, 11265.1, .2, and .3, 18904, and 18910, Welfare and Institutions Code.

Reference: Sections 10554, 11265.1, .2, and .3, 18901, 18904, and 18910, Welfare and Institutions Code; Section 11349.1, Government Code; 7 Code of Federal Regulations (CFR) 271.2, 7 CFR 272.3(c)(1)(ii); 7 CFR 273.2(d)(1), (e)(3), (h)(1)(C), (h)(1)(i)(B) and (D), (h)(2)(i)(A), (i)(4)(iii)(B), (C) and (D), (j), (j)(1), (j)(1)(iv), (j)(2)(iii) and (iv), (j)(3), (j)(4), and (j)(4)(vi); 8 CFR 273.4; 7 CFR 273.7 and .8(g)(1)(i); 7 CFR 273.8(e)(17); 7 CFR 273.9(d)(7) as published in the Federal Register, Vol. 59, No. 235 on December 8, 1994; 7 CFR 273.10(c)(1) and (g)(1)(ii); 7 CFR 274.2; (Court Order re Final Partial Settlement Agreement in Jones v. Yeutter (C.D. Cal. Feb. 1, 1990) [Dock. No. CF-89-0768].); Public Law (P.L.) 102-237, Sections 902 and 905, as specified in Federal Administrative Notice 92-12, dated January 9, 1992; USDA, Food and Consumer Service, Administrative Notice 97-105, dated August 21, 1997; and P.L. 104-193, Sections 815 and 838 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996); Food and Consumer Service Waiver dated May 24, 1996; Food and Nutrition Service Quarterly Reporting/Prospective Budgeting waiver dated April 1, 2003; Federal Food Stamp Policy Memos 82-9 dated December 8, 1981, and 88-4 dated November 13, 1987, and Federal Register, Vol. 66, No. 229, dated November 28, 2001.

EMERGENCY FILE PRINT

STATE OF CALIFORNIA - OFFICE OF ADMINISTRATIVE LAW
NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-08)

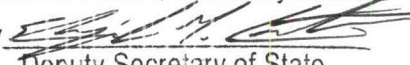
OAL FILE NUMBERS Z-	NOTICE FILE NUMBER	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2008-0620-02 EFP
For use by Office of Administrative Law (OAL) only		In the office of the Secretary of State of the State of California	
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY California Department of Social Services		AGENCY FILE NUMBER (if any) ORD #0208-01	

FILED

2008 JUN 20 PM 2:44

OFFICE OF ADMINISTRATIVE LAW

JUN 26 2008

At 3:23 O'Clock P. M.
DEBRA BOWEN, Secretary of State
By 
Deputy Secretary of State

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE ☐ Notice re Proposed Regulatory Action ☐ Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY	ACTION ON PROPOSED NOTICE ☐ Approved as Submitted ☐ Approved as Modified ☐ Disapproved/Withdrawn		NOTICE REGISTER NUMBER	PUBLICATION DATE

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Senate Bill 1569 (Ch. 672, Stats. of 2006) Implementation		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)		ADOPT Sections 40-037, 70-101, 70-102, 70-103, 70-104, and 70-105 _____ (Amend - cont.) 69-202, and 69-205	
TITLE(S) MPP		AMEND Sections 30-755, 30-770, 40-105, 42-430, 42-431, 42-433, 42-711, 49-020, 49-030, 49-060, 63-403, 69-201,	
REPEAL			
3. TYPE OF FILING			
☐ Regular Rulemaking (Gov. Code §11346) ☐ Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. ☐ Emergency Readopt (Gov. Code, §11346.1(h)) ☐ Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) ☐ Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §11349.3, 11349.4) ☒ Emergency (Gov. Code, §11346.1(b)) ☐ Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) ☒ File & Print ☐ Print Only ☐ Other (Specify) _____			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100) ☐ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ §100 Changes Without Regulatory Effect ☒ Effective other (Specify) July 1, 2008			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY ☐ Department of Finance (Form STD. 399) (SAM §6660) ☐ Fair Political Practices Commission ☐ State Fire Marshal ☐ Other (Specify) _____			
7. CONTACT PERSON Sandra Ortega, Manager, Office of Regulations		TELEPHONE NUMBER (916) 657-2586	FAX NUMBER (Optional) (916) 654-3286
		E-MAIL ADDRESS (Optional)	

8.

I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

TYPED NAME AND TITLE OF SIGNATORY

John A. Wagner, Director

6/13/08

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 01-08) (REVERSE)

YOUR NOTICE

INSTRUCTIONS FOR PUBLICATION OF NOTICE AND SUBMISSION OF REGULATIONS

Use the form STD. 400 for submitting notices for publication and regulations for Office of Administrative Law (OAL) review.

ALL FILINGS

Enter the name of the agency with the rulemaking authority and agency's file number, if any.

NOTICES

Complete Part A when submitting a notice to OAL for publication in the California Regulatory Notice Register. Submit two (2) copies of the STD. 400 with four (4) copies of the notice and, if a notice of proposed regulatory action, one copy each of the complete text of the regulations and the statement of reasons. Upon receipt of the notice, OAL will place a number in the box marked "Notice File Number." If the notice is approved, OAL will return the STD. 400 with a copy of the notice and will check "Approved as Submitted" or "Approved as Modified." If the notice is disapproved or withdrawn, that will also be indicated in the space marked "Action on Proposed Notice." Please submit a new form STD. 400 when resubmitting the notice.

REGULATIONS

When submitting regulations to OAL for review, fill out STD. 400, Part B. Use the form that was previously submitted with the notice of proposed regulatory action which contains the "Notice File Number" assigned, or, if a new STD. 400 is used, please include the previously assigned number in the box marked "Notice File Number." In filling out Part B, be sure to complete the certification including the date signed, the title and typed name of the signatory. The following must be submitted when filing regulations: seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification) and the complete rulemaking file with index and sworn statement. (See Gov. Code § 11347.3 for rulemaking file contents.)

RESUBMITTAL OF DISAPPROVED OR WITHDRAWN REGULATIONS

When resubmitting previously disapproved or withdrawn regulations to OAL for review, use a new STD. 400 and fill out Part B, including the signed certification. Enter the OAL file number(s) of all previously disapproved or withdrawn filings in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). Submit seven (7) copies of the regulation to OAL with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). Be sure to include an index, sworn statement, and (if returned to the agency) the complete rulemaking file. (See Gov. Code §§ 11349.4 and 11347.3 for more specific requirements.)

EMERGENCY REGULATIONS

Fill out only Part B, including the signed certification, and submit seven (7) copies of the regulations with a copy of the STD. 400 attached to the front of each (one copy must bear an original signature on the certification). (See Gov. Code § 11346.1 for other requirements.)

NOTICE FOLLOWING EMERGENCY ACTION

When submitting a notice of proposed regulatory action after an emergency filing, use a new STD. 400 and complete Part A and insert the OAL file number(s) for the original emergency filing(s) in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B). OAL will return the STD. 400 with the notice upon approval or disapproval. If the notice is disapproved, please fill out a new form when resubmitting for publication.

CERTIFICATE OF COMPLIANCE

When filing the certificate of compliance for emergency regulations, fill out Part B, including the signed certification, on the form that was previously submitted with the notice. If a new STD. 400 is used, fill in Part B including the signed certification, and enter the previously assigned notice file number in the box marked "Notice File Number" at the top of the form. The materials indicated in these instructions for "REGULATIONS" must also be submitted.

EMERGENCY REGULATIONS - READOPTION

When submitting previously approved emergency regulations for re adoption, use a new STD. 400 and fill out Part B, including the signed certification, and insert the OAL file number(s) related to the original emergency filing in the box marked "All Previous Related OAL Regulatory Action Number(s)" (box 1b. of Part B).

CHANGES WITHOUT REGULATORY EFFECT

When submitting changes without regulatory effect pursuant to California Code of Regulations, Title 1, section 100, complete Part B, including marking the appropriate box in both B.3. and B.5.

ABBREVIATIONS

Cal. Code Regs. - California Code of Regulations
Gov. Code - Government Code
SAM - State Administrative Manual

For questions regarding this form or the procedure for filing notices or submitting regulations to OAL for review, please contact the Office of Administrative Law Reference Attorney at (916) 323-6815.

Amend Section 30-755.113 to read:

30-755 PERSONS SERVED BY THE NON-PCSP IHSS PROGRAM

30-755

.1 Eligibility

.11 A person is eligible for IHSS who is a California resident living in his/her own home, and who meets one of the following conditions: (Continued)

.113 Meets all SSI/SSP eligibility criteria, except for income in excess of SSI/SSP eligibility standards, ~~and~~ meets applicable share of cost obligations, and meets the state program noncitizen status as provided in MPP Section 30-770.51.
(Continued)

Authority cited: Sections 10553, 10554, and 12150, Welfare and Institutions Code; ~~and~~ Chapter 939, Statutes of 1992; and Senate Bill 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 10554, 12304.5, 12305, 13283, ~~and~~ 14132.95, and 18945, Welfare and Institutions Code.

Adopt Sections 30-770.5 and .51 to read:

30-770 ELIGIBILITY STANDARDS (Continued)

30-770

.5 State Program NonCitizen Status

.51 A noncitizen victim of human trafficking, domestic violence or other serious crimes as defined under the Trafficking and Crime Victims Assistance Program (TCVAP), MPP Chapter 70-100, shall be eligible for IHSS if all other eligibility criteria are met.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283 and 18945, Welfare and Institutions Code.

Adopt Section 40-037 to read:

40-037 IMPLEMENTATION OF BENEFITS AND SERVICES TO
NONCITIZEN VICTIMS OF HUMAN TRAFFICKING,
DOMESTIC VIOLENCE, OR OTHER SERIOUS CRIMES

40-037

.1 General

These regulations extend eligibility for certain public social services, including state-funded CalWORKs, to certain noncitizen victims of trafficking, domestic violence or other serious crimes, as defined, who can demonstrate their eligibility for these programs, and to trafficking victims who are taking steps to meet eligibility conditions for federal benefits.

.2 Effective Date

All regulatory action implementing the provisions authorized by the federal Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108-193) as Senate Bill (SB) 1569 (Chapter 672, Statutes of 2006) shall become effective for applicants and recipients July 2008. (Welfare Institutions Code Sections 13283, 14005 and 18945)

.3 Sections Adopted

40-105.26, Social Security Number Exception
42-431.23 et seq., Eligibility Requirements
42-431.3 through .5, Determining Eligibility

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283, 14005.2, and 18945, Welfare and Institutions Code; 8 United States Code 1182(d)(5)(B), 45 Code of Federal Regulations 400.43; The Trafficking Victims Protection Act of 2000 (P.L. 106-386), Sections 107(b)(1)(A), (B), and (C); The Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108-193).

Amend Section 40-105.2 to read:

40-105 APPLICANT AND RECIPIENT RESPONSIBILITY (Continued) 40-105

.2 Social Security Number (SSN)

.21 As a condition of eligibility, each ~~AFDC FG and U~~ CalWORKs applicant or recipient member of the AU shall: (Continued)

.26 Individuals identified in Section 42-431.23, who are state-funded, are not required to meet this requirement. (Continued)

Authority cited: Sections 10553, 10554, 10604, 11209, 11253.5, 11265.2, 11265.3, 11265.8, 11266, 11268, 11450.5, and 11486, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 10553, 10554, 10604, 11209, 11253.5, 11265.3, 11265.8, 11266, 11268, ~~and 11486, 13283, 14005.2, and 18945,~~ Welfare and Institutions Code; Section 48200, Education Code; 45 CFR 205.42(d)(2)(v)(A) and (B), as printed in Federal Register, Vol. 57, No. 198, Tuesday, October 13, 1992, page 46808; 45 CFR 205.52(a)(1) and (2); 45 CFR 233.10(a)(1)(iv) and 235.112(b); 45 CFR 400.43; 7 CFR 273.16(b); 8 United States Code (USC) 1182(d)(5)(B); 42 U.S.C. 402(a)(6) and 616(b); and Section 301(a)(1)(A) and (B) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193); California's Temporary Assistance for Needy Families State Plan dated October 9, 1996 and effective November 26, 1996; The Trafficking Victims Protection Act of 2000 (P.L. 106-386), Sections 107(b)(1)(A), (B), and (C); The Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108-193).

Amend Section 42-430 to read:

42-430 CITIZENSHIP AND ~~ALIENAGE~~ NONCITIZEN STATUS

42-430

Only citizens of the United States and certain categories of ~~aliens~~ noncitizens are eligible for ~~AFDC~~ CalWORKs. Citizens must prove their citizenship and ~~aliens~~ noncitizens must prove their eligible ~~alien~~ noncitizen status. Aid shall not be authorized until eligible ~~alien~~ noncitizen status is verified.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 42-431 to read:

42-431 ELIGIBILITY REQUIREMENTS

42-431

As suggested in Section 42-430, to be eligible for assistance an applicant or recipient must be a California resident who is either: (Continued)

.2 ~~An alien~~ noncitizen who is: (Continued)

.23 A victim of trafficking, domestic violence or other serious crimes granted eligibility for certain public social services under the Trafficking and Crime Victims Assistance Program (TCVAP).

.231 The CWD must determine the status of individuals applying for benefits as victims of human trafficking, domestic violence or other serious crimes.

HANDBOOK BEGINS HERE

- (a) Severe forms of human trafficking are defined in the U.S. Code, Title 22, Section 7102 (8) as: Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- (b) Sections 1101(a)(15)(U)(i) and (iii) of Title 8 of the U.S. Code define noncitizen victims of serious crimes as aliens who:
 - (1) Have suffered substantial physical or mental abuse as a result of having been victims of criminal activity involving, or similar to, the following violations: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury or attempt; conspiracy or solicitation to commit any of the above mentioned crimes; and,
 - (2) Possess information concerning criminal activity (or in the case of an alien child under the age of 16, the parent, guardian, or adult representing the child); and
 - (3) Have been helpful, are being helpful, or are likely to be helpful to a federal, state, or local law enforcement official, prosecutor, or judge or to other federal, state, or local authorities investigating or

prosecuting criminal activities described above (or in the case of an alien child under the age of 16, the parent, guardian, or adult representative of the alien is helpful).

HANDBOOK ENDS HERE

.3 Eligible noncitizen trafficking or serious crime victims who meet all other eligibility criteria for cash assistance shall be aided under the CalWORKs program. See MPP Section 40-105.26 for SSN exception.

.31 If not otherwise eligible under the CalWORKs program requirements, these individuals shall have their eligibility determined under the Trafficking and Crime Victims Assistance Program (TCVAP).

.32 For purposes of determining eligibility as a victim of human trafficking (Section 42-431.23), the CWD shall consider all relevant and credible evidence. A sworn statement by a victim or a representative, if the victim is unable to competently swear, shall be sufficient to verify trafficking status, if at least one item of additional evidence is provided. This evidence includes, but is not limited to the following:

.321 Police, government agency, or court records or files;

.322 News articles;

.323 Documentation from a social services, trafficking, or domestic violence program, or a legal, clinical, medical, or other professional from whom the applicant or recipient has sought assistance in dealing with the crime;

.324 A statement from any other individual with knowledge of the circumstances that provided the basis for the claim;

.325 Physical evidence;

.326 A copy of a completed visa application;

.327 Written notice from United States Citizenship and Immigration Services (USCIS) of receipt of the visa application.

.33 If the victim cannot provide additional evidence, a sworn statement shall be sufficient if the county makes a determination that the applicant appears to be credible.

HANDBOOK BEGINS HERE

.331 The CWD may use a generic "under penalty of perjury" form for the sworn statement that contains the applicant's declaration that s/he is a victim of human trafficking.

.332 The credibility of an applicant for purposes of accepting his/her sworn statement of trafficking status may be determined by applying the same standard used when determining credibility in domestic violence cases as defined in Section 42-715.12. The sworn statement is acceptable as long as there is an independent reasonable basis for finding the applicant credible.

HANDBOOK ENDS HERE

.4 Determination of Trafficking Victim's Eligibility for Benefits and Services

.41 Once it has been determined that the applicant meets the definition of a victim of human trafficking, the CWD must verify that the applicant:

.411 Has filed an I-914 application for T Nonimmigrant status (T Visa) with USCIS and the application has not been denied; or

.412 Is preparing to file an application for a T Visa; or

.413 Is otherwise taking steps to meet the eligibility conditions for federal benefits; or

.414 Is a person for whom "continued presence" in the U.S. has been requested by law enforcement because s/he is assisting or willing to assist the U.S. Attorney General in the prosecution of human traffickers.

HANDBOOK BEGINS HERE

.42 The following documentation can be used in determining whether an applicant has filed or is preparing to file for a T Visa:

.421 A confirmation receipt or letter from USCIS verifying an application has been filed; or

.422 A copy of the application for a T Visa (form I-914); or

.423 If an applicant has not yet filed for a T Visa, the applicant's statement that he or she intends to file or is taking steps to become federally eligible (e.g., working with a community-based organization to prepare to qualify for federal benefits, working with law enforcement, etc.) will be acceptable.

(a) Documentation could also include statements from persons in official capacities, (e.g., law enforcement officials or victims advocates) who have assisted or are assisting the victim with the T Visa application or steps to becoming eligible.

.43 "Continued Presence" is a status that allows trafficking victims assisting law enforcement to remain in the country during the course of a criminal investigation.

HANDBOOK ENDS HERE

.44 Eligibility for state-funded services for trafficking victims shall be terminated if:

.441' The recipient has a final administrative denial of a T Visa application; or

(a) "Final Administrative Denial" means that an appeal of the visa denial has been unsuccessful or the time to appeal the denial has passed without an appeal having been filed, whichever comes first.

.442 The recipient has not applied for a T Visa within one year of the date of the CalWORKs application; or

.443 A request on behalf of the recipient for continued presence has not been made within one year of the date of CalWORKs application; or

.444 The recipient is issued a T Visa.

.45 When a trafficking recipient who is otherwise eligible receives his/her T Visa, the case is reviewed for Temporary Assistance For Needy Families (TANF) eligibility and application for SSN must be made in accordance with Section 40-105.21.

.5 Determination of Eligibility for Benefits and Services for Victims of Domestic Violence or Other Serious Crimes

.51 State-funded services for noncitizen victims of domestic violence or other serious crimes are available only when a request with USCIS for a U Visa has been filed, if otherwise eligible. To be eligible under this section, the CWD must verify that these applicants:

.511 Have filed a formal application for U Visa (Form I-918 and required supplements) with USCIS for status under Section 1101(a)(15)(U)(i) or (ii) of the Title 8 of U.S. Code.

HANDBOOK BEGINS HERE

.52 Acceptable documentation for verifying that an application for a U Visa has been filed includes, but is not limited to:

.521 A confirmation receipt or letter from USCIS verifying that a request has been filed; or

.522 The Notice of Action (form I-797) approving a U Visa; or

.523 A form I-797 which serves as a fee receipt for an employment authorization request based on a U Visa application; or

.524 A copy of the Petition for U Nonimmigrant status (Form I-918)

HANDBOOK ENDS HERE

.53 Eligibility for state-funded services will continue until the recipient has a final administrative denial, as defined in Section 42-431.441(a), of a U Visa application or when the 60-month program limitation has been reached, whichever comes first.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283, 14005.2, and 18945, Welfare and Institutions Code; 8 United States Code 1182(d)(5)(B), 45 Code of Federal Regulations 400.43; the Trafficking Victims Protection Act of 2000 (P.L. 106-386), Sections 107(b)(1)(A), (B), and (C); the Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108-193).

Amend Section 42-433 to read:

42-433 **PROOF OF CITIZENSHIP OR ELIGIBLE ALIEN
NONCITIZEN STATUS**

42-433

A citizen must prove his/her citizenship to be eligible, as provided in Section 42-433.2. An ~~alien~~ noncitizen must prove that he/she is in one of the eligible categories described in Section 42-431.2 above, by presenting the appropriate documentation described in Section 42-433.31 below.

.1 Cooperation

Every applicant and recipient shall provide all information necessary to determine his/her citizenship or ~~alien~~ noncitizen status. An applicant or recipient whose citizenship or ~~alienage noncitizen status~~ is evidenced by a document issued by the ~~Immigration and Naturalization Service (INS)~~ United States Citizenship and Immigration Services (USCIS) (e.g., a naturalized citizen or person whose American citizenship is derived from the citizenship of another person) must cooperate with ~~INS~~ USCIS when the county desires that his/her documentation be verified by ~~INS~~ USCIS (as when the documentation presented is believed by the county to be of doubtful authenticity). Any applicant or recipient who refuses to cooperate in the verification of his/her status shall not be eligible. See Sections 40-105 and 40-157.3. (Continued)

.3 Documentation – ~~Aliens~~ Noncitizens

- .31 Every ~~alien~~ noncitizen claiming eligible ~~alien~~ noncitizen status as defined in Section 42-431 shall be required to present documentation of that status, as follows:
- .311 Noncitizens lawfully admitted for permanent residence (Section 42-431.21): ~~INS~~ USCIS Form I-551, or earlier forms I-151, AR-3 and AR-3a, if specifically endorsed to show legal right to reside permanently.
- .312 Noncitizens granted asylum or refugee status (Section 42-431.221(a) and (b) and 42-431.222): ~~INS~~ USCIS Form I-94, annotated with the term asylum or asylee, refugee or conditional entry or entrant.
- .313 Parolees (Section 42-431.221(c)): ~~INS~~ USCIS Form I-94 (Arrival-Departure Record – Parole Edition) endorsed to show bearer has been paroled in the U.S. pursuant to Section 212(d)(5) of the Immigration and Nationality Act.
- .314 Persons granted indefinite voluntary departure or an indefinite stay of deportation (Section 42-431.223 and .224): A court order or correspondence from ~~INS~~ USCIS stating that the individual has been granted this status.
- .32 An ~~alien~~ noncitizen who declares or presents documentation that he/she is lawfully present for temporary residence (e.g., a visitor whose period of admission has not expired) is not eligible except as noted in Sections 42-431.221(c) and .23.

.33 Documentation submitted by the alien noncitizen applicant in accordance with .31 above which the CWD believes to be of doubtful authenticity shall be accepted as evidence of eligibility only if the applicant cooperates with the CWD and INS USCIS in verifying his/her status. See Section 42-433.1. A CA CW 6 shall be completed by the applicant which shall be referred immediately to INS USCIS. If INS USCIS returns the CA CW 6 to the CWD and indicates that INS USCIS is unable to complete the verification process due to noncooperation by the alien noncitizen, the CWD shall delete the alien noncitizen from the FBU AU. An alien noncitizen who has been deleted from the FBU AU for this reason may complete another CA CW 6 but shall not be reinstated to the FBU AU until confirmation of eligible alien noncitizen status is received by the CWD from INS USCIS.

.4 Lack of Documentation

.41 If the alien noncitizen or naturalized/derivative citizen has no documentation of eligible status, the county welfare department shall inform the individual that:

.411 He/she may contact INS USCIS or otherwise obtain an INS USCIS document or other conclusive evidence verifying citizenship or eligible alien noncitizen status, or

.412 He/she may sign a CA CW 6, authorizing the county to contact INS USCIS to obtain the necessary verification.

.42 If an alien noncitizen or naturalized/derivative citizen authorizes the county to contact INS USCIS to obtain verification of the applicant's status, the CWD shall forward two copies of the CA CW 6 to INS USCIS and retain a copy in the case file. When INS USCIS verification is returned to the CWD, the CWD shall notify the applicant.

.43 If the applicant does not wish to contact INS USCIS or give permission to the CWD to contact INS USCIS, the applicant may withdraw his/her application or the application shall be denied for noncooperation (see Sections 19-007.12 and 40-105.11).

.5 Receipt of CA CW 6 from INS USCIS

When an alien's noncitizen's eligibility has been confirmed by INS USCIS and the completed CA CW 6 has been received by the CWD, the CWD shall resume processing the application and the beginning date of aid rules in Section 44-317 shall apply.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283, 14005.2, and 18945, Welfare and Institutions Code; 8 United States Code 1182(d)(5)(B), 45 Code of Federal Regulations 400.43; The Trafficking Victims Protection Act of 2000 (P.L. 106-386), Sections 107(b)(1)(A), (B), and (C); The Trafficking Victims Protection Reauthorization Act of 2003 (Public Law 108-193).

Amend Section 42-711.5 to read:

42-711 WELFARE-TO-WORK PARTICIPATION REQUIREMENTS
(Continued)

42-711

.5 Assignment of Recipients to Welfare-to-Work Activities (Continued)

.53 Job Search (Continued)

.531 Recipients are required to participate in job search activities. At the option of the CWD, applicants may voluntarily participate. Exceptions to the requirement that all recipients must participate in job search activities are as follows: (Continued)

(d) A noncitizen who is a victim of human trafficking, domestic violence or other serious crimes as specified in Section 42-431.23 who does not have authorization to work from the United States Citizenship and Immigration Services shall not be required to participate in job search.
(Continued)

.55 Assessment

.551 Participants, except those excluded as provided in Sections 42-711.31, 42-711.557, and 42-711.558 and Section 42-719.111, shall be referred to assessment, if: (Continued)

(b) The CWD determines that participation in job search will not be required as the first activity because it would not be beneficial;~~or~~;

(c) The CWD decides to shorten job search because it is not likely to lead to employment~~, or~~;

(d) The CWD determines that participation in job search will not be required if the recipient is a noncitizen victim of human trafficking, domestic violence or other serious crimes as specified in Section 42-431.23 and does not have authorization to work from the United States Citizenship and Immigration Services.

(1) A recipient who does not have authorization to work should be assigned to welfare-to-work activities that will assist him or her to prepare for future employment, which may include, but is not limited to, adult basic education (English language training), vocational education and training, domestic violence, mental health, and substance abuse services. (Continued)

Authority cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 11203, 11253.5(b), 11320.1, 11320.1(c), 11320.15, 11320.3, 11322.6, 11322.8, 11324.8(a) and (b), 11325.2, 11325.21, 11325.22, 11325.23(a), (b), (c), (e), and (f), 11325.25, 11325.4, 11325.5, 11325.6, 11325.7, 11325.8, 11326, 11327.4 and .5, 11454, 13283, 15204.2 and .8, and 16501.1(d) and (f), and 18945(a), Welfare and Institutions Code; and 42 U.S.C. 607(c)(1)(A), (c)(1)(B)(ii), and (c)(2)(A)(i).

Amend Section 49-020 to read:

49-020 IMMIGRATION STATUS

49-020

.1 General requirements

.11 To be eligible for CAPI, a non-citizen must be one of the following:

.111 aA legal immigrant and who meets the immigration status requirements in effect for SSI/SSP on August 21, 1996, or

.112 A victim of human trafficking, domestic violence or other serious crimes as defined in Welfare and Institutions Code Section 18945. Applicants qualified under these provisions will be eligible for benefits and services to the same extent as individuals who are admitted to the United States as refugees.
(Continued)

.13 A victim of trafficking must meet the same eligibility criteria as those used for the State Trafficking and Crime Victims Assistance Program (TCVAP) found in MPP Sections 70-102 and 70-103.1 through .4.

.14 A victim of domestic violence or other serious crimes must meet the same eligibility criteria as those used for the TCVAP found in MPP Section 70-104.1.

.2 (Continued)

.22 Non-citizens who do not meet the definition of Qualified Alien must meet the other immigration standards in effect for SSI/SSP on August 21, 1996, which are known as the PRUCOL categories as defined in Section 49-005(p), or be a victim of human trafficking, domestic violence or other serious crimes as specified in MPP Section 49-020.1, to be eligible for CAPI. (Continued)

.3 (Continued)

.32 To be eligible for extended CAPI, a non-citizen who meets the definition of Qualified Alien, ~~or~~ Permanently Residing in the United States Under Color of Law (as defined in MPP Sections 49-005(q) and (p), respectively), or who is a victim of human trafficking, domestic violence or other serious crimes as specified in MPP Section 49-020.1, must have entered the United States on or after August 22, 1996 and be ineligible for basic CAPI under any of the conditions described in MPP Sections 49-020.311 through .313. (Continued)

Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006).

Reference: 20 CFR 416.1600; P.L. 104-193 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996) as amended, Sections 401 and 402 and Sections 13283, 18938, 18940, ~~and~~ 18944, and 18945, Welfare and Institutions Code.

Amend Section 49-030.1 to read:

49-030 INELIGIBILITY FOR SSI/SSP

49-030

- .1 To be eligible for CAPI, an individual must be ineligible for SSI/SSP solely due to his or her immigration status.
- .11 Ineligibility must be verified by one of the following: (Continued)
 - .113 A county determination that the applicant is not a Qualified Alien (or considered as such) as defined in MPP Section 49-005(q)(1). (Continued)

Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code.

Reference: Sections 13283, 18938, ~~and~~ 18939, and 18945 Welfare and Institutions Code.

Amend Section 49-060.1 to read:

49-060 BENEFIT SUSPENSIONS AND TERMINATIONS

49-060

.1 A recipient's CAPI benefit shall be suspended when any of the following events occur.
(Continued)

(k) The recipient's immigration status no longer meets the criteria specified in MPP Section 49-020.1. This specifically includes:

- (1) A victim of human trafficking whose application for a T Visa has been finally administratively denied, or who has not applied for a T Visa within one year of the CAPI application date, or on whose behalf a request for continued presence has not been made within one year of the CAPI application date, the recipient has been issued a T Visa; or
- (2) A victim of domestic violence or other serious crimes whose application for a U visa has been finally administratively denied.

An application for a visa has been finally administratively denied when an appeal of the visa denial has been unsuccessful or the time to appeal the denial has passed, whichever comes first.

Authority cited: Sections 10553, 10554, and 18943, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006).

Reference: 20 CFR 416.1323; 20 CFR 416.1324; 20 CFR 416.1325; 20 CFR 416.1330; 20 CFR 416.1331; 20 CFR 416.1333 through .1335; P.L. 104-193, Section 202 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996), and Sections 18937, 18938, ~~and~~ 18940, and 18945, Welfare and Institutions Code.

Amend Section 63-403 to read:

63-403 CALIFORNIA FOOD ASSISTANCE PROGRAM (CFAP)

63-403

.1 Noncitizen Eligibility

Certain legal noncitizens of the United States (U.S.) shall be eligible for CFAP if they are not eligible for federal Food Stamp (FS) benefits, based solely on their immigration status under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 as amended by the Food Stamp Reauthorization Act of 2002. Legal presence can be verified through ~~INS~~ USCIS at application [i.e. Systematic Alien Verification for Entitlements (SAVE) System]. Legal noncitizens whose time limit has expired for the federal program but would otherwise remain eligible for federal benefits are eligible for CFAP.

.11 Victims of trafficking, domestic violence, or other serious crimes.

Welfare and Institutions Code Section 18945 established eligibility for this group of noncitizens. Eligibility rules are outlined in Sections 42-431.23, .3, .4, and .5.

.2 Application of Existing Regulations

Current federal FSP regulations contained in the State FSP Manual (Division 63 of the CDSS Manual of Policies and Procedures) will apply to the CFAP and its participants unless otherwise stated. For CFAP recipients who do not meet exemptions from deeming, the period for deeming of a sponsor's income and resources shall be three years from the date of the sponsor's execution of the 213aA ~~a~~Affidavit of ~~s~~Support. Victims of abuse by their sponsor or sponsor's spouse shall be exempt from deeming.

.21 Existing federal FSP regulations apply to victims of human trafficking, domestic violence, or other serious crimes, except where otherwise indicated.

.211 As a condition of eligibility, when the noncitizen victim of human trafficking, domestic violence, or other serious crimes does not have permission to work in the United States and the Social Security Administration will not issue a social security number, this requirement is suspended until such time as the individual's ability to obtain a social security number changes.

.3 CFAP work requirements are provided in Section 63-411.

.31 Trafficking, domestic violence, or other serious crime applicants shall not be subject to food stamp work requirements. This includes the Able-Bodied Adult Without Dependents (ABAWD) work requirement, and requirements for food stamp work registration and participation in the Food Stamp Employment and Training (FSET) program. In addition, recipients shall not be subject to penalties for voluntary quit and reduction of hours worked. However, this group may participate in other education or training to the extent such participation is permissible. (Continued)

Authority cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 11320.3, 11495.12, 18930 through 18934, and 18945, Welfare and Institutions Code (as amended by AB 1111, Chapter 147, Statutes of 1999 and AB 429, Chapter 111, Statutes of 2001); 7 CFR 273.4; Federal Register, Vol. 61, No. 202, dated 10/17/96; Federal Register, Vol. 52, No. 103, dated May 29, 1987; USDA, Food and Consumer Service, Administrative Notice 97-105, dated August 21, 1997; and Section 4401(a) of the Food Stamp Reauthorization Act of 2002, P.L. 170-171 [8USC 1612(a) and 8USC 1613(c)].

Amend Section 69-201.3 to read:

69-201 GENERAL STATEMENT (Continued)

69-201

- .3 County Welfare Departments (CWDs) shall determine the eligibility of refugees in the Refugee Resettlement Program (RRP) for CalWORKs and Refugee Cash Assistance (RCA). Eligibility for SSI/SSP shall be determined by the Social Security Administration. The CWD shall administer these programs according to federal policy under the supervision of CDSS for financial assistance and social services, and the State Department of Health Care Services (DHCS) for medical services. Eligibility for benefits and services of noncitizen victims of a severe form of human trafficking who do not qualify under Sections 69-202.15 and .16, and noncitizen victims of domestic violence or other serious crimes shall be determined pursuant to Chapter 70-100, the Trafficking and Crime Victims Assistance Program (TCVAP). (Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill (SB) 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283 and 18945, Welfare and Institutions Code; 45 Code of Federal Regulations 400 and 400.5.

Amend Section 69-202 to read:

69-202 UNITED STATES CITIZENSHIP AND IMMIGRATION
SERVICES (USCIS) STATUS REQUIREMENT

69-202

- .1 For purposes of determining eligibility for cash assistance and social services under RRP, a person must provide proof, in the form of documentation issued by the USCIS, of one of the following statuses: (Continued)
 - .15 Certified as a victim of a severe form of trafficking by the federal Office of Refugee Resettlement (ORR). (For a noncertified, noncitizen victim of a severe form of human trafficking or noncitizen victim of domestic violence or other serious crimes, see Chapter 70-100.)
 - .16 Eligible family members of a victim of a severe form of trafficking certified by ORR who have a T-2, T-3, T-4, or T-5 Visa. (For family members of a noncertified, noncitizen victim of a severe form of human trafficking or noncitizen victim of domestic violence or other serious crimes, see Chapter 70-100.) (Continued)
- .2 For purposes of determining eligibility for assistance and social services under RRP, the term "refugee" does not include: (Continued)
 - .23 Any person determined eligible pursuant to Chapter 70-100 (TCVAP). (Continued)
- .4 RCA
 - .41 For purposes of determining eligibility for RCA, RCA means cash assistance provided to refugees who have been determined to be ineligible for CalWORKs or SSI/SSP and who have resided in the United States for no longer than the period of time required by federal regulations contained in 45 CFR Sections 400 et seq. or official issuances from the Director of the Federal Office of Refugee Resettlement. This period of time is referred to as time eligibility. Time eligibility does not apply to determinations for state TCVAP cash aid (see Chapter 70-100.) (Continued)

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; and Senate Bill (SB) 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283 and 18945, Welfare and Institutions Code; 8 U.S.C. 1182(d)(5)(B) 45 CFR 400.43; The Trafficking Victims Protection Reauthorization Act of 2000 (P.L. 106-386), Sections 107(b)(1)(A), (B), and (C); and The Trafficking Victims Protection Reauthorization Act of 2003 (P.L. 108-193).

Amend Section 69-205.2 to read:

69-205 ELIGIBILITY FOR REFUGEE CASH ASSISTANCE (RCA)
(Continued)

69-205

.2 Eligibility Determination (Continued)

.21 The eligibility of each RCA applicant shall be determined as promptly as possible within no more than 30 days from the date of application. (Continued)

.212 For victims of a severe form of human trafficking who are receiving state TCVAP cash aid and who have obtained ORR certification and are now eligible for RCA, a new eligibility period will commence pursuant to Section 69-202.411 and the beginning date of aid is determined as follows:

- (a) If the original application for assistance is still current, the beginning date of aid is the date of ORR certification (see Section 70-105.13).
- (b) If the original application is no longer current, the regular beginning date of aid rule at Section 69-205.211 applies.
- (c) There shall be no break in service and the recipient shall be notified of the new eligibility period.

.213 Claiming for cases being converted from TCVAP to RCA shall be changed from state-only to federal effective the beginning date of RCA. (Continued)

.24 Time-Eligibility

.241 Eligibility for RCA is limited to the number of months required in Section 69-202.41 following the refugee's date of entry in the United States. The month of entry, as indicated on the USCIS Form I-94, is counted as the first month. Time-eligibility exceptions to this provision include asylees who are eligible for RCA beginning on the date they are granted asylum, victims of a severe form of trafficking who are eligible for RCA beginning on the date they are certified by the ORR; eligible family members of certified trafficking victims who are eligible for RCA from the date of entry into the U.S. or the date of the Derivative T Visa is issued if already present in the U.S.; and unaccompanied refugee minors (Section 69-213) who are not subject to the time-eligibility limitation. Noncitizen victims of a severe form of human trafficking who are not eligible under Sections 69-202.15 and .16 and victims of domestic violence or other serious crimes, are not subject to the time-eligibility limitation under Section 70-105.121.

Authority cited: Section 10554, Welfare and Institutions Code; and SB 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 10553, 13283, and 18945, Welfare and Institutions Code; 45 CFR 400.55; 45 CFR 400.66; and 45 CFR 400.81(b); The Trafficking Victims Protection Act of 2000 (P.L. 106 - 386), Sections 107(b)(1)(A), (B), and (C); and the Trafficking Victims Protection Reauthorization Act of 2003 (P.L. 108-193).

Adopt Division 70, Chapter 70-100 and Section 70-101 to read:

DIVISION 70 SPECIAL PROGRAMS

CHAPTER 70-100 TRAFFICKING AND CRIME VICTIMS ASSISTANCE
PROGRAM (TCVAP)

70-101 GENERAL STATEMENT

70-101

- .1 These regulations implement Senate Bill (SB)1569 (Chapter 672, Statutes of 2006), which established the state TCVAP in order to provide public social services and health care services to noncitizen victims of a severe form of human trafficking who are not eligible under Sections 69-202.15 and .16 and to noncitizen victims of domestic violence or other serious crimes. Applicants qualified under these provisions will be eligible for benefits and services to the same extent as individuals who are admitted to the United States as refugees under Sections 69-201 et seq.
- .2 County Welfare Departments (CWDs) shall determine the eligibility of applicants for TCVAP. The CWD shall administer these programs according to state policy under the supervision of CDSS for public social services, and the State Department of Health Care Services for medical services.
 - .21 Sections 70-102 and 70-103 shall be applied when determining the status and eligibility of trafficking victims.
 - .22 Section 70-104 shall be applied when determining the eligibility of domestic violence and other serious crime victims.

Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; Senate Bill 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283 and 18945, Welfare and Institutions Code.

Adopt Section 70-102 to read:

70-102 DETERMINATION OF TRAFFICKING VICTIM STATUS

70-102

- .1 The CWD shall determine the trafficking status of non-federally eligible individuals applying for state benefits and services as victims of a severe form of human trafficking.

HANDBOOK BEGINS HERE

- .11 Severe forms of human trafficking are defined in the U.S. Code, Title 22, Section 7102(8) as: Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

HANDBOOK ENDS HERE

- .2 For purposes of determining eligibility as a victim of a severe form of human trafficking for TCVAP, a sworn statement by the victim, or a representative if the victim is not able to competently make a sworn statement, is sufficient to verify trafficking status, if at least one item of additional evidence is provided, including, but not limited to:
- .21 Police, government agency, or court records or files;
- .22 News articles;
- .23 Documentation from a social services, trafficking, or domestic violence program, or a legal, clinical, medical, or other professional from whom the applicant or recipient has sought assistance in dealing with the crime;
- .24 A statement from any other individual with knowledge of the circumstances that provided the basis for the claim;
- .25 Physical evidence;
- .26 A copy of a completed visa application;
- .27 Written notice from USCIS of receipt of the visa application.
- .3 If the victim cannot provide additional evidence, the sworn statement shall be sufficient if the county makes a determination documented in the case file that the applicant is credible.

HANDBOOK BEGINS HERE

- .31 The CWD may use a generic "under penalty of perjury" form for the sworn statement that contains the applicant's declaration that s/he is a victim of a severe form of human trafficking.

HANDBOOK ENDS HERE

Authority cited: Section 10553, Welfare and Institutions Code; Senate Bill 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283 and 18945, Welfare and Institutions Code.

Adopt Section 70-103 to read:

70-103 DETERMINATION OF TRAFFICKING VICTIMS' ELIGIBILITY 70-103
FOR TCVAP BENEFITS AND SERVICES

- .1 Once it has been determined that the applicant meets the definition of a victim of a severe form of human trafficking, in order to determine the applicant's eligibility for TCVAP, the CWD must verify that the applicant:
- .11 Has filed an I-914 application for T Nonimmigrant status (T Visa) with USCIS and the application has not been denied; or
- .12 Is preparing to file an application for a T Visa; or
- .13 Is otherwise taking steps to meet the eligibility conditions for federal benefits; or
- .14 Is a person for whom "continued presence" in the U.S. has been requested by law enforcement because s/he is assisting or willing to assist the U.S. Attorney General in the prosecution of human traffickers.

HANDBOOK BEGINS HERE

- .2 The following documentation may be useful in determining whether an applicant has filed for a T Visa:
- .21 A confirmation receipt or letter from USCIS verifying an application has been filed; or
- .22 A copy of the application for a T Visa (form I-914).
- .3 If an applicant has not yet filed for a T Visa, the applicant's statement that s/he intends to file or is taking steps to become federally eligible (e.g., working with a community-based organization to prepare to qualify for federal benefits, working with law enforcement, etc.), will be acceptable.
- .31 Documentation could include statements from persons in official capacities, (e.g., law enforcement officials or victims advocates) who are assisting the victim with the T Visa application or steps to becoming eligible.
- .4 "Continued Presence" is a status that allows victims assisting law enforcement to remain in the country during the course of a criminal investigation.

HANDBOOK ENDS HERE

- .5 Eligibility for state-funded services shall be terminated if:
- .51 The recipient's application for a T visa has been finally administratively denied; or,

- .511 An application for a visa has been "finally administratively denied" when an appeal of the visa denial has been unsuccessful or the time to appeal the denial has passed without an appeal having been filed, whichever comes first.
- .52 The recipient has not applied for a T Visa within one year of the date of application for public social services; or,
- .53 A request on behalf of the recipient for continued presence has not been made within one year of date of application for public social services; or
- .54 The recipient has been issued a T Visa.

Authority cited: Section 10553, Welfare and Institutions Code; Senate Bill 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283 and 18945, Welfare and Institutions Code.

Adopt Section 70-104 to read:

70-104 DETERMINATION OF SERIOUS CRIME VICTIMS'
ELIGIBILITY FOR TCVAP BENEFITS AND SERVICES

70-104

- .1 In determining eligibility for TCVAP, the CWD must verify that the applicant has filed a formal application for a U Visa (Form I-918 and required supplements) with USCIS under Section 1101(a)(15)(U)(i) of Title 8 of the U.S. Code.

HANDBOOK BEGINS HERE

- .11 Federal law defines noncitizen victims of serious crimes as aliens who:

.111 Have suffered substantial physical or mental abuse as a result of having been victims of criminal activity involving, or similar to, the following violations: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury or attempt; conspiracy or solicitation to commit any of the above mentioned crimes; and,

.112 Possess information concerning criminal activity (or in the case of an alien child under the age of 16, the parent, guardian, or adult representing the child); and

.113 Have been helpful, are being helpful, or are likely to be helpful to a federal, state, or local law enforcement official, prosecutor, or judge or to other federal, state, or local authorities investigating or prosecuting criminal activities described above (or in the case of an alien child under the age of 16, the parent, guardian, or adult representative of the alien is helpful).

- .12 Acceptable documentation for verifying that an application for a U Visa has been filed includes, but is not limited to:

.121 A confirmation receipt or letter from USCIS verifying that a request has been filed; or

.122 The Notice of Action (form I-797) approving a U Visa; or

.123 A form I-797 which serves as a fee receipt for an employment authorization request based on a U Visa application; or

.124 A copy of the Petition for U Nonimmigrant status (Form I-918).

HANDBOOK ENDS HERE

- .2 Eligibility for state-funded services for victims of serious crimes will be terminated when the recipient's application for a U Visa has been finally administratively denied, as defined in Section 70-103.511, or when the 60-month program limitation has been reached, whichever comes first.

Authority cited: Section 10553, Welfare and Institutions Code; Senate Bill 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283 and 18945, Welfare and Institutions Code.

Adopt Section 70-105 to read:

70-105 TCVAP BENEFITS AND SERVICES

70-105

.1 Eligibility Procedures for TCVAP Benefits and Services Equivalent to Refugee Cash Assistance (RCA).

Individuals determined eligible pursuant to Sections 70-102 through 70-104 are entitled to benefits and services to the same extent as refugees as defined at Sections 69-202.1 and .2, and are subject to the same requirements (outside of legal status) as RCA recipients as described in Sections 69-204 through 69-216, with the following exceptions that include, but are not limited to:

.11 Eligibility for Other Programs (cross-reference Section 69-204)

.111 Noncitizen victims of a severe form of human trafficking and noncitizen victims of domestic violence or other serious crimes applying for benefits under these provisions shall not be required to apply for SSI/SSP, as it would be inappropriate to impose a requirement for which it is known there is no eligibility.

.112 Noncitizen victims of a severe form of human trafficking and noncitizen victims of domestic violence or other serious crimes who qualify for assistance under CAPI shall be aided under CAPI.

.113 Noncitizen victims of a severe form of human trafficking and noncitizen victims of domestic violence or other serious crimes who qualify for assistance under the state CalWORKs program shall be aided under the state CalWORKs program.

.12 Eligibility for TCVAP Cash Aid (cross-reference Section 69-205)

.121 Neither time-eligibility nor refugee status criteria apply in TCVAP cases.

.122 Eligibility for TCVAP cash aid is limited to the number of months required in Section 69-202.41 following the date of application.

.123 TCVAP trafficking recipients are permitted one year to apply for a T Visa, and are limited to a maximum of 8 months of TCVAP cash aid during this period.

(a) If 8 months of TCVAP is paid prior to the year elapsing and TCVAP cash aid is discontinued, services for which recipients are eligible may continue until the twelve-month period elapses.

(b) If the TCVAP recipient files an application for a T Visa during this year, there is still an 8 month maximum limit on TCVAP cash aid, but services for which they are eligible continue.

- (c) If the recipient does not file an application for a T Visa within one year of the date of application, the case shall be discontinued.
- (d) If ORR certification is obtained, the case is converted to RCA, pursuant to Section 70-105.13.
- (e) If the request for a T Visa is finally administratively denied, as defined in Section 70-103.511, the case is discontinued.

.124 TCVAP crime victim recipients must have filed a request for a U Visa in order to be eligible for TCVAP benefits and services. Once eligible, they are limited to a maximum of 8 months of TCVAP cash aid and continuing services for which they are eligible.

- (a) If/when the U Visa request is finally administratively denied, as defined in Section 70-103.511, the TCVAP case shall be discontinued.

.13 Conversion to RCA

When a TCVAP trafficking recipient obtains ORR certification, a determination shall be made of RCA eligibility (see Section 69-205). If all eligibility factors for RCA are met, the TCVAP case shall be discontinued and a new eligibility period for RCA shall be granted pursuant to Section 69-202.411, for the maximum period allowable under that section.

.14 Employment/Training Requirements and Exemptions (cross-reference Section 69-207)

.141 Compliance with certain Registration, Employment and Employment-Directed Education/Training Requirements shall not be required if the recipient does not have work authorization from USCIS.

- (a) TCVAP recipients might not possess a social security number or be authorized to work. Employment-directed education and training must be appropriate to the situation, therefore, if a recipient is technically or legally unable to participate s/he cannot be required to do so. If a recipient is unable to work or participate in a CWD approved employment-directed program due to lack of work authorization, s/he would not be required to participate in job search activities, or be referred to the Employment Development Department. Activities should be identified that will assist the recipient to prepare for future employment, such as English language training, job skills development, job-specific training, etc.

.142 In addition to the exemptions from appropriate applicable work registration, employment and training requirements found at Section 69-207.3, an exemption shall be available to TCVAP recipients if physical or psychological

trauma related to or arising from the victimization impedes their ability to comply, when verified by a physician's written statement that the illness or injury is serious enough to temporarily prevent his/her entry into an appropriate education/training program.

.15 Case Records (cross-reference Section 69-216)

A TCVAP applicant/recipient might not possess a passport, Alien Registration number, or any USCIS documentation. The case record shall include the following information in addition to that required by CalWORKs program regulations:

.151 Documentation gathered to verify trafficking status, as described in Section 70-102.2.

.152 The applicant's sworn statement.

(a) The county's written determination of the applicant's credibility if the sworn statement is the only evidence available.

.153 Documentation gathered for verifying that the applicant has filed or intends to file for a T Visa (see Sections 70-103.1 through .4).

.154 Documentation gathered for verifying that the applicant has filed for a U Visa (see Section 70-104.1).

Authority cited: Section 10553, Welfare and Institutions Code; Senate Bill 1569 (Chapter 672, Statutes of 2006).

Reference: Sections 13283 and 18945, Welfare and Institutions Code.